

# Crunch time for residential landlords?

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## Proposed new legislation is the latest in a fast-changing landscape for the private rented sector.

Residential landlords have been experiencing constant waves of change. Some struggle to keep up with legislation and guidelines extended by the government during the pandemic. Fast-diminishing returns following recent cuts in tax relief and the complexities of right-to-rent checks are just a few examples. Unfortunately for them, there are even more developments on the horizon.

The government's long-awaited [White Paper](#) "A fairer private rented sector" finally arrived in June. According to the press statement from the Department for Levelling Up, Housing and Communities, the paper sets out the most significant structural changes for renters in a generation.

It aims to improve conditions and rights for those in all housing.

In addition to changes in the law for a privately rented property through the [Renters Reform Bill](#), the [Social Housing \(Regulation\) Bill](#) subjects all registered social housing providers to a strict new regulatory regime, with rigorous inspections and stronger powers to tackle their failings.

### Re-shaping the renting landscape

For private landlords, the headline takeaways are:

1. the sector will be subject to the [Decent Homes Standard](#) for the first time, giving all renters the legal right to a safe and warm home; and
2. it will ban section 21 'no fault' evictions.

This last change is one of the most fiercely debated by landlords. The ambition of the legislation is to abolish

[section 21](#) of the Housing Act 1988 and re-frame the grounds on which a landlord can regain possession under [section 8](#) of the Act. It aims to protect tenants from unscrupulous or unpredictable landlords.

Furthermore, the government plans to introduce a more straightforward tenancy structure that is more secure for tenants yet more flexible for both parties. For example, it proposes a shift from assured tenancies and assured shorthold tenancies onto a single system of periodic tenancies for all privately rented accommodation. The effect of this change will be that a tenancy will only end if the tenant chooses to give two months' notice to the landlord or if the landlord has a valid ground for possession.

As landlords can only evict a tenant in reasonable circumstances, the government is making changes to strengthen a landlord's position with legitimate grounds for taking back their property. For example, it makes it easier for them to evict tenants who are wilfully not paying rent or are repeatedly engaging in anti-social behaviour. There will also be scope to end a tenancy if a landlord intends to sell a property or if the landlord has its own intended use.

A summary of further planned changes are:

- To create a passport form of a deposit to overcome the need to raise second deposits when moving home. This topic has been the source of much discussion amongst landlords, who see problems when releasing deposits before they may have had full opportunity to check for tenant damages.
- Landlords can only increase rent once annually.
- Tenants will have an easier route to challenge rent increases through the First Tier Tribunal.

- There are plans to abolish Rent review clauses altogether.
- There are plans to establish a new Ombudsman service to provide a faster, less adversarial dispute resolution service instead of going to court. All private landlords will have to participate.
- The plans propose to introduce other mediation and alternative dispute resolution procedures to enable landlords and tenants to work together to reduce the risk of issues escalating.
- A new Property Portal will give all parties a one-stop route to demonstrate and check compliance and other information. The intention is that tenants can check on landlords before taking a property and for local councils to have the necessary data to tackle criminal landlords. There are also plans to integrate the existing functionality of the Database of Rogue Landlords into the new Property Portal to make these publicly visible.
- It will be illegal for landlords or their agents to apply a blanket ban on renting to families with children or those receiving state benefits. In future, this may include other groups, such as those leaving prison.
- Landlords must demonstrate good reasons for refusing tenant requests to keep a pet. However, they will be able to require an insurance indemnity from the tenant to cover the cost of any potential damage by the pet.

Against this backdrop of increasing complexity and lower yields, many private landlords may consider divesting and moving out of renting altogether.

There are pros and cons, and it's worth considering some of the other potential changes contemplated by the government.

### **Weighing up the holiday-let market**

The rapid growth of short-term, hotel-style letting on platforms such as Airbnb and Booking.com has been blamed for reduced levels of longer-term rental stock. There's an obvious attraction with higher nightly rates, payment in advance and no worries about long-term problem tenants.

However, the market is gradually being pulled into shape by greater regulation. The government will review the

impact of holiday lets in the UK as part of its overall mission to address the housing shortage for those living in popular tourist locations. The review will also examine the impact of holiday let rentals on anti-social behaviour, whether from stag nights or pop-up party events. However, the platforms are taking action, with Airbnb banning parties on all rentals. Local authorities are likely to take action too.

The review will add to the national rules and regulations relating to tax, health & safety and local bylaws, for instance, the maximum 90-days per year rule applicable to short-term rentals in London.

Under the [Deregulation Act 2015](#), homeowners in London can rent their homes to guests on a short-term basis for up to 90 days in one calendar year without having to apply for planning permission to change their property use class from a C3 (Dwelling House) to C1 (Hotels, Boarding Houses, Guest Houses). The 90 days can be a series of one-off nightly or weekly lettings or a single block of time. However, suppose the homeowner exceeds the 90-day rule without permission from their Council. In that case, they can be subject to penalties of up to £20,000 for each unlawful letting.

The government is also taking action to tackle the issue of second and empty homes in some areas. Some councils may have the power to charge higher council tax rates, which could see rates double, and in Wales, it could even quadruple. There are also reports that regional mayors may have the power to ban properties from being used as short-term lets altogether.

### **Taking a tax break – if talk turns into law**

Other things to consider are the cost of selling and getting out of the rental market, including capital gains tax.

A landlord may find themselves with a capital gains tax bill if a gain on the sale of a property that is not a principal private residence exceeds their annual allowance. The tax on the gain is payable at a rate of 18% for basic rate taxpayers and 28% for higher rate taxpayers.

Recent reports suggest that the government is considering reducing the buy-to-let market by offering tax breaks to accidental landlords to encourage sales and increase housing stock. An accidental landlord could be a person who has, say, inherited a second property.

## Whatever the weather

In this fast-moving landscape, taking regular guidance and keeping up to date with access to relevant knowledge is essential.

Whether you are an accidental landlord, a single property landlord or hold a significant property portfolio, the same rules apply, and there is no exemption for lack of knowledge.

Getting clear advice and checking the legal and financial implications as the sector continues to deal with these latest changes may help avoid unmanageable situations.

Speak to property lawyer [Neil Boonin](#) today to discuss this complex area of law.

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