Legal Update for Landlords 2016

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THE LAW SOCIETY ACCREDITED Conveyancing Quality

The LEGAL 500 UNITED KINGDOM LEADING FIRM 2015

Ranked In CHAMBERS UK 2016 Leading Firm

pae Procurement Agency for Essex

Agenda

- Deregulation Act 2015
  - S21 Notice
- Retaliatory Evictions
- Right to Rent Checks
- Q & A

Civil Disputes & Litigation Team

Sam Bawden
Partner & Head of Team

Mark Cornell
Managing Partner

David Dixey
Landlord & Tenant Specialist

Sara Thompson
Debt Recovery Specialist

Tom Farrell
Debt Recovery Specialist

Deregulation Act 2015

(England only)

- Ending Assured Shorthold Tenancies (ASTs)
- New Rules ("no fault evictions")
- Tenancies granted on/after **1st Oct 15**

s21 Notice - New Prescribed Form

- No gas safety or energy performance certificates
- Tenant has not received booklet: *"How to rent: checklist for renting in England"*
- Delivered within first four months of tenancy

- Circumstances amount to *"retaliatory eviction"*

s21 Notice - continued

- Possession proceedings must be commenced within 6 months (previously “open ended”).
- Tenant rebate where rent paid in advance/vacates property in response to s21 Notice.
- Periodic tenancy (s21(4)(a)) – Notice no longer required to specify last day of a period of the tenancy.

Retaliatory Evictions

Retaliatory Evictions

- Disrepair/Poor Condition
- Tenant Complains to Landlord
- Landlord responds within 14 days – confirms steps to be taken

If no adequate response:

- Tenant approaches Local Housing Authority
- Local Housing Authority inspects/serves a

- s21 Notice served after tenant's complaint to landlord
  - *invalid if Local Housing Authority serve Improvement Notice/Notice of Emergency Remedial Action.*

- Unable to serve valid s21 Notice within 6 months of service of "relevant notice" by Local Housing Authority.

Exemptions
from retaliatory eviction provisions

- Where condition of property resulting in service of “relevant notice” caused by tenant’s breach.
- Property genuinely on market for sale.
- Pre-existing mortgage and mortgagee wishes to exercise power of sale.
- Landlord is registered provider of social housing.

Exemptions
from retaliatory eviction provisions - continued

Property not "genuinely on market" if landlord intends to sell interest to:

- Person associated with landlord
- Business partner of landlord
- Person associated with business partner of landlord
- Business partner of person associated with landlord

"Right to Rent" Checks
Immigration Act 2014

- Piloted in parts of England from December 2014.
- In force for remainder of England (but not in Wales) from 1st February 2016.

Imposes obligations on landlords to:

- Check tenants (and other authorised occupiers) have right to be in UK before granting tenancy;
- Check that tenant's/occupier's right to occupy does not lapse.

Consequences of breach

- Possible civil penalty up to £3000
- Immigration Bill 2015-16 – possible new criminal offence for repeated breaches

Key aspects of scheme

- Who has right to occupy residential property?
- What arrangements fall within the scheme?
- Who might be liable for a penalty?
- How to comply (Checks/Establishing a statutory excuse)?
- Agents/ Landlords
- Excluded agreements

Government Code of Practice - https://www.gov.uk/government/publications/

Thank You