

BUT THIS IS MY HOUSE!!!

Proposed Changes to the 1988 Housing Act

The Facts and our opinion.

This morning, Housing Minister Rt Hon James Brokenshire announced a consultation period on the ability of landlords to remove tenants using Section 21 of the 1988 Housing Act, with potentially far reaching consequences for Landlords. We examine:

Background:

the 1988 Housing Act which created the AST along with the now vilified Section 21, is the very instrument which completely transformed the rented sector and ushered in our current system. Pre-1988 the Private Rented Sector accounted for less than 8% of homes in the UK. Now benefitting from the flexibility that the '88 Housing Act afforded, the industry that figure has grown to over 19% (2018 figures in England according to the UK Gov English Housing Survey 2018). This new legislation completely opened up the rented sector, hugely improving geographic mobility and benefitted countless tenants looking for flexible accommodation

The Facts:

The Government has announced a consultation period where it will seek to remove Section 21 Evictions and amend Section 8 evictions. The effect of this will be to create open-ended tenancies as oppose to Fixed Term tenancies that currently exist.

Currently under a Fixed Term Assured Shorthold Tenancy (AST), a Tenant will reside in a property for a fixed term after which the status of their tenancy becomes periodic – meaning that a landlord may give notice (usually 2 months) to take possession of their property which is done under Section 21 of the Housing Act. Further an AST may contain a Break Clause (usually after 6 months) allowing both landlord and tenant to provide notice to terminate the AST should either party's circumstances change.

The Government is seeking to amend this relationship, which they see as overtly favouring the Landlord, by removing the ability of the Landlord to take possession of his or her property for any reason by restricting their ability to remove their tenant. This would mean the removal of Section 21 of the Housing Act. However, The Government will also seek to amend Section 8 of the Act to allow a Landlord to retrieve their property for their own use or for sale. Section 8 has a further 17 parts allowing for eviction (such as non-payment of rent or damage to the property) and these will also most likely be amended as well but as to how, the information is not yet available.

However, the Consultation also provides for the ability of a Landlord to remove a disruptive or non-paying Tenant under Section 8. In the past this could have taken 4-6 months via the Courts. The Government has stated that in conjunction with these changes to the Housing Act, it intends to reform this process to make it quicker and more efficient.

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What does this mean for Landlords?

In short, this is an appropriation by the Government of the UK Private Rental Sector, determining for how long (and therefore also for how much) and to whom a Landlord may rent their property **but** balanced with a proposed fast-track ability to remove disruptive and non-paying Tenants.

We note with interest that Landlords are able to take possession of their property to live in or to sell (which is something the Mortgage providers would require so that they can take control of the property if necessary, sell it, and recover any outstanding monies, without a sitting tenant frustrating the process). However, who is to say that Landlord should not be able to put his property up for sale whenever he or she wants to, and market it accordingly. Prior to doing this a Landlord may wish to terminate any existing tenancies so as to redecorate and present the property to the market in best possible conditions. SDLT may of course mean that the property does not sell and the Landlord is then forced to put it back the rental market. It is difficult to legislate against a private individual seeking to dispose of their assets as and when and how they see fit.

The PRS market is a delicate balance of supply and demand which has developed mostly organically over decades, to fill the needs of a population not able or willing to purchase a home. We understand the premise of what the government are trying to do, which is protect the more vulnerable against the 1% of Landlords who would seek to abuse the rights that Section 21 affords. However meddling with a system that already works for the overwhelming majority is a perilous undertaking, and we are very wary of this process, which by its nature is designed to tip the balance of power towards the tenant. By doing so however they risk upsetting this stability of the whole sector which could have the effect of pushing droves of landlords out of the industry altogether, particularly when taking into account the additional tax burdens Landlords are facing on both acquisition and income of their Buy To Let properties...)

The Devil however, and as always, will be in the detail...



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