RENTERS' REFORM BILL - EXAMINING GOVERNMENT PLANS TO TRANSFORM THE PRIVATE RENTED SECTOR

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Real Estate Alert

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On 17 May 2023, the Renters' Reform Bill (the Bill) was introduced to Parliament. The Bill will fundamentally overhaul the landlord and tenant relationship for private housing.

This article will explain key reforms proposed by the Bill and analyse the effect these reforms could have on the private rented sector. The Bill enjoys wide parliamentary support and the support of campaign groups.

KEY REFORMS PROPOSED BY THE BILL

A New Tenancy Picture Without S. 21 Evictions or Fixed Term Tenancies

The Bill plans to abolish landlords' section 21 eviction power and scrap all fixed term tenancies.

- S. 21 evictions

The government views s. 21 evictions as inhibiting tenant stability. When a landlord wants to end a periodic tenancy, but the tenant is resistant, they can issue a s. 21 eviction notice.[1] The s. 21 notice allows landlords to end periodic tenancies with two months' notice and without the need to provide a reason.[2] As a result, a family of long-term tenants may be forced to move out of their home for no stated reason with two months to find alternative accommodation.

- Fixed term tenancies

The government views fixed term tenancies as not providing sufficient flexibility to tenants. Tenants may need to move out quickly to buy a property or take a job opportunity—fixed terms inhibit this.

- A new tenancy picture

The Bill will create the following tenancy framework:

- All tenancies will be periodic—rolling on a weekly or monthly basis.
- Tenant's will have to provide two months' notice if they wish to end their tenancy.
- Landlords will no longer have the s. 21 power to evict tenants on periodic tenancies without reason. Instead, Landlords will be given new and expanded grounds to end tenancies where they wish to sell or move family members into their property.

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- Landlords will only be able to exercise these new grounds after the first six months of a tenancy.

The Bill's new tenancy picture will be implemented in two stages. After stage one, all new tenancies must be periodic. At stage two, all existing tenancies will be transitioned to periodic. The government will give at least six months' notice of the stage one date, and there will be at least 12 months between the two stages.

New Duty to Satisfy the Decent Homes Standard

The Bill will introduce a legislative duty on private landlords to meet the Decent Homes Standard.[3] The Decent Homes Standard already applies to social housing and encapsulates basic standards of safety, repair, thermal comfort and facilities for a dwelling. The government estimates 21% of private rented properties do not meet the standard and will require investment from landlords.[4]

Blanket Bans Will Be Illegal

The Bill will make it illegal for landlords or agents to have blanket bans on renting to families with children or those who receive benefits.

Abolishing Rent Review Clauses

The government believes that unscrupulous landlords force tenants into agreements with unfair rent review clauses. The Bill will ban the inclusion of rent review clauses in leases and not permit the increase of rent during a tenancy more than once per year.

A New Ombudsmen

The Bill will introduce a single government-approved ombudsman to cover all private landlords in England. Membership of the ombudsman will be mandatory for landlords. The ombudsman will have the remedial power to compel landlords to apologise, provide information, take specified action and pay compensation up to £25,000.

Permitting Pets

The Bill will make it illegal for landlords to unreasonably withhold their consent to a tenant's request to have a pet in the property. Landlords will be able to oblige such tenants to acquire insurance against damage their pets may cause to the property.

The Bill does not explain when it would be reasonable for a landlord to withhold their consent to a pet request.

A New Property Portal

The government will introduce a new property portal that will hold information on every property in the private rental sector. This will support local authority enforcement, help landlords to better understand their responsibilities and better inform tenants about prospective landlords and properties.

EFFECT OF THE BILL'S REFORMS ON THE PRIVATE RENTED SECTOR

Effect on Landlords

The Bill's proposals—especially scrapping s. 21 evictions and fixed term tenancies—restrict the flexibility of landlords to manage their property. This could lead to more landlords wishing to sell.

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This impact may satisfy government aims to increase the stock of homes for purchase, but the Bill may have unintended consequences. For example, appetite for build-to-let projects may suffer, more landlords could turn to licences in order to avoid tenancies and the supply of rental property could be further squeezed.

Most worrying for landlords will be the removal of s. 21 evictions. The s. 21 power is widely used by landlords. Latest government statistics indicate 67% of landlords who evicted tenants in the last year gave their tenants a s. 21 notice.[5] While s. 21 does not require a stated reason for eviction, landlords often find the power useful to remove troublesome tenants.[6]

On the other hand, impetus to support landlords in the Bill is clear. More efficient and effective mechanisms for obtaining vacant possession will be welcome.

The repeal of s. 21 will leave landlords reliant on s. 8 of the 1988 Housing Act, which requires a court hearing, and the grounds for possession set out in Schedule 2.

The Government plans to amend the s. 8 regime to compensate for the loss of s. 21 in several ways:

1. To introduce new grounds for possession for landlords who want to sell their property or move themselves or close family members into it, although it says it will not allow use of these grounds in the first six months of a tenancy and will prevent landlords from marketing or re-letting for three months following the use of either ground;
2. To introduce a mandatory ground where a tenant has been in at least two months' rent arrears three times in the previous three years, regardless of their arrears on the day of the hearing; and
3. To make it easier for landlords to evict tenants responsible for antisocial behaviour using existing grounds for possession.[7]

Effect on Tenants

Most worrying for tenants will be the end of fixed term tenancies. These tenancies provide a simple framework for their exclusive possession of the landlord's property. Periodic tenancies by their nature will feel more precarious. However, proposals to tackle rogue landlords including adopting the Decent Homes Standard, removing blanket bans, and implementing a sector wide ombudsmen will be welcome.

Effect on the General Student Private Rental Sector Market

The abolition of fixed-term tenancies, combined with the repeal of s. 21, would give tenants greater security of tenure, which is a positive proposal. However, the general student private rental market is one exception, where abolishing fixed-term contracts could make letting to students considerably less attractive to private landlords. This is because the student rental market reflects the academic year, which benefits from 12-month fixed tenancies. If the student private rental sector was not made exempt from the abolition of fixed-term tenancies, this could push up rents or reduce the availability of student rental at a time when the market in many university towns is already very tight. It is therefore advisable that the government retains fixed-term contracts in the student private rental sector.[8]

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CONCLUSION

The Bill will rebalance the private rented sector in favour of tenants. The Bill's headline reform will remove a significant tool landlords have to obtain vacant possession from tenants. Further reforms modernise the sector and aim to increase baseline housing standards while rooting out rogue landlords.

The Secretary of State for Housing Michael Gove has indicated the Bill is likely to become law before the next general election.

FOOTNOTES

[1] S. 21 Housing Act 1988.
[2] A court still needs to issue possession proceedings after issuance of the s. 21 notice in order for the tenancy to be brought to an end.
[3] Department for Levelling Up, Housing & Communities, “A Decent Homes Standard in the private rented sector: consultation,” September 2022.
[4] Ibid.
[5] Department for Levelling Up, Housing & Communities, “English Private Landlord Survey 2021: main report,” May 2022.
[6] National Residential Landlord Association, “Section 21 & Landlord Experience,” April 2019.
[7] Department for Levelling Up, Housing & Communities, “Reforming the Private Rented Sector,” February 2023.
[8] Department for Levelling Up, Housing & Communities, “Reforming the Private Rented Sector,” February 2023. Fifth report of Session 2022-23.

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