

## R3 BRIEF LEGAL UPDATES



### Executive Summary

R3 is delighted to publish its second legal newsletter in its effort to provide updates twice a year on any relevant information that affect tenants and their rights. In this newsletter, we look at:

#### Tenant Fees Bill – update



Further amendments to this Bill have been proposed in September 2018 to include treatment of excessive fees for minor damages.

#### Section 21 Notice



From 1 October 2018, Form 6A will have to be used to serve s21 notices for all tenancies.

#### Homes (fitness for human habitation) Bill 2017-19



A proposed Bill currently in the House of Lords looks at extending Landlord's repairing obligations to ensure properties are free from hazards from which a risk of harm may arise to the health or safety of the tenant.

**If you have any questions on any of these, R3Location would be delighted to help.**

## Tenant Fees Bill Update

### What does the Bill say?

The draft Bill prohibits landlords and lettings agents requiring any payment from a tenant for the 'grant, renewal and continuation' of any tenancy or license. The Bill includes payments which are permitted (rent and deposit but also holding deposits - to a degree) and a payment in the event of tenants' breaches. In addition, the deposit payable under any tenancy or license will be limited to 6 weeks. It may not necessarily apply to Common Law agreements.

### September 2018 Amendments

The Bill will go through the Committee Stage in the House of Lords at the end of November 2018. Further amendments will now include protections as follows:

- Tenants will no longer be forced to pay "excessive fees" for minor damages;
- Landlords or agents will only be able to recover reasonable costs for which they can provide evidence.

For other provisions, please refer to our [May Legal Update](#) Newsletter.

### What does it mean for Deposits?

It is unclear what value this will bring over and above deposits already protected under the current legislation (for Assured Shorthold Tenancies, all deposits need to be registered with an approved Government scheme and clear procedures for damage deductions already exist).

## Section 21 notice

### Deregulation Act 2015

From 1 October 2018 changes prescribed in the Deregulation Act 2015 will apply to all tenancies. The Act introduced a number of changes to the Section 21 provisions including the need to fill Form 6A to serve notice.

### Serving Notice

There are some restrictions to the use of s21. It can't be used if any of the following apply:

- it's less than 6 months since the tenancy started
- the fixed term has not ended, unless there's a clause in the contract which allows this

- the property is categorised as a house in multiple occupation (HMO) and does not have a HMO licence from the council

Landlords lose the right to use s21 if they have not given the tenants copies of:

- the property's Energy Performance Certificate
- a current gas safety record for the property
- Government's 'How to Rent' guide

## Homes (Fitness for Human Habitation) Bill 2017-19

### What is seeking to do?

The proposed Bill, currently undertaking its first reading in the House of Lords, will seek to amend the Landlord and Tenant Act 1985 to require that residential rented accommodation is provided and maintained in a state of fitness for human habitation.

### Why has it been proposed?

Under the draft Bill, landlords will be subject to broader responsibilities over and above s.11 (repair structure of the property, keep in repair, heating, gas, water and electricity installations when something is broken or damaged) to ensure that their property is free from hazards from which risk of harm may arise to the health or safety of the tenant or occupier of the property at the start of the tenancy and keeping it in that condition for the duration of the tenancy. Tenants will have rights to take legal action for breach of contract under these provisions.

### What is it likely to cover?

Currently, nothing in law addresses obligations relating to inadequate heating, fire safety, poor ventilation leading to condensation and mould growth, or which deals with defects prior to the start of the tenancy. The Bill seeks to redress this and may include requirements to deal with damp, inadequate lighting, poor ventilation, fire safety, adequate drainage.

The Bill is still in its draft stages, and amendments will be likely. It is worth remembering that this Bill is probably not aimed at protecting tenants in rented properties in the prime residential private sector in London.