

# Will the Renters Reform Bill harm tenants?

Intended to deliver a 'renting revolution', the Renters Reform Bill may ultimately achieve just the opposite: Gary Scott lists some causes for concern



The Renters Reform Bill is a bold attempt by government to change the structure and nature of the landlord and tenant relationship that has been in place for the past 30 years by abolishing assured shorthold tenancies. The aim is to remedy existing issues within the rental sector and to try to balance tenants' security and a settled home life against the flexibility of landlords to deal with their property. The proposed legislation seems to have at its heart the idea that both parties should play fair.

## What's in the Bill?

What some have called the 'no-fault' eviction mechanism will be ended, but it would better be described as the ending of 'no-reason' evictions. Landlords would still have specified permitted reasons for eviction where the tenant is not at fault.

The right to end a tenancy for rent arrears is set to be changed to include repeated late payment as a mandatory ground, meaning the court must give possession in these circumstances rather than being able to exercise its discretion. If a tenant is two months in arrears three times or more in a three-year period, the court must order possession even if those arrears are cleared. This is a big change to the existing rules where a possession order can be avoided by reducing arrears to less than two months' rent on the day of the hearing.

The Bill also introduces other grounds so landlords are not trapped into a tenancy agreement should their circumstances change. It proposes to allow termination

of a tenancy where a landlord wishes to sell or develop the property. The Bill also proposes the introduction of a ground for circumstances where the local authority deems the property to be too small for the number of occupants.

Increased regulation in the private rental sector is proposed to drive out rogue landlords. All landlords would have to register on a central database. Enforcement against rogue landlords would be strengthened and justice would be dispensed by the local authority acting as judge, jury and executioner. Significant financial penalties are introduced for landlords who do not comply with regulations or act in bad faith.

## Possession rights

Nothing in the Bill, however, addresses the fundamental issue of enforcement of landlords' possession rights. The system for evicting a bad tenant through the courts is broken. There is significant delay in getting to a first hearing and, where the facts are disputed, it can take more than a year to resolve. During that period, rent arrears may grow to unmanageable levels, and property damage or anti-social behaviour can continue unabated.

The ending of section 21 'no-reason' evictions means that every case will require evidence to be presented, which can then be challenged. The system cannot cope with its current workload, and the proposed legislation will only add to that workload.

Each part of the system needs reform, from the point of issuing a claim for

possession, the initial processing of that claim, getting before a judge, and thereafter processing evictions via the court bailiff. There is significant delay in each of these areas of the process. To remedy will require significant investment.

There is no detail, as yet, from the government as to what it proposes or when. They are looking to implement 'end-to-end digitisation of the process' and to explore prioritisation of cases of anti-social behaviour.

This in itself would not solve the problem of a lack of judges or judicial time which is available for such claims. There is a significant backlog of civil cases in general. On average, small claims cases are heard 45 weeks from the date of issue of the claim, and fast-track or multi-track cases 72 weeks from the date of issue. The number of court employees has fallen by more than a quarter in the decade from 2011 to 2021, and the number of judges has also fallen slightly, which reflects a significant fall in real terms, considering the increase in workload.

## Impact on the rental market

If the government is prepared to finance a modern court service to deal with this sector that can deliver judicial outcomes swiftly, then the proposed renting revolution could actually work. This is unfortunately a very large 'if', and a failure to do so will lead to an imbalance that would have a serious impact on landlords and unintended consequences for tenants.

Landlords with small portfolios are already leaving the market due to interest rate rises, inflation, and the ending of mortgage interest as a tax-deductible expense. There is a real danger that fears over increased regulation and the possibility of fines being imposed by the local authority without any judicial process will drive even more from the market, especially if the process of enforcing against a bad tenant remains as lengthy and costly as it is now.

51% of rental properties are owned by landlords with one to four properties. It is not difficult to foresee that the effect of even a minority of those landlords leaving the market will result in a significant lack of supply, driving up rents. Indeed, Rightmove have released figures showing that the number of properties available to rent on their platform in Q1 2023 was more than 35% down on the average number for the same period between 2017 and 2019. Average rents in the private sector have gone up over 10% in the same period.

This Bill, designed to help renters, may ultimately prove to do just the opposite. **NLJ**

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