

# Renters' Rights Act Conference

Rewriting renting: Navigating the Renters' Rights Act

24 February 2026



# Welcome and introduction



Justin Bates KC



# In Conversation with Vicky Spratt



Vicky Spratt



Justin Bates KC



# How did we get here? From reform to rights



Justin Bates KC



# What am I talking about?

What is wrong with the private rented sector?

What did Labour propose?

What have they actually done?



# What is wrong with the PRS?

A (very) short history

## Rent Acts 1915 – 1977

- Rent control (for some)
- High degree of security of tenure (for some)

## Housing Act 1988

- Assured tenancy (originally default but post Housing Act 1996, largely confined to housing associations)
- Assured shorthold tenancy (now default tenancy in PRS)



# The problem

- AST means no meaningful security of tenure
  - s.21 Housing Act 1988
    - link to homelessness (up to 31% of all homelessness cases)
    - link to rising rents (2024, CPI around 3%, rents around 6.1% and don't forget the benefits bill)
    - link to poor quality housing and lack of repairs



# Labour manifesto

Secure housing is key to all other aspects of life

- Improve family security and access to education by keeping children in their homes and keeping parental costs down
- Meet environmental targets by requiring landlords to improve energy efficiency
- Save benefits bill (and private costs) by preventing unjustified rent increases
- Security of tenure enables tenants to push for repairs and improvements



# How is it doing this?

## Unashamedly re-balancing the landlord/tenant relationship (Brooke/Sophie)

- End of s.21 HA 1988 means that eviction is only permitted on the basis of specified (good) reasons (but note expanded reasons)
- Tenant can leave on 2 months' notice
- Focus is on security in your home (not primacy of asset; *cf* rental bidding restrictions)

## Driving down costs (Chris/Mattie)

- s.13 HA 1988 only way to increase rents (so agree them or have FTT set them)
- Will act as “soft” rent control (or, more accurately, slow the rent increases )
- Knock on benefit for homelessness applications
- S.42A looks interesting...



# How is it doing this? (2)

## Professionalising the PRS (Peter/Kate)

- The new database. The bit of the Act that the Treasury likes...
- How will it work? See RentSmart Wales?
- Key documents on a website to enable T to make informed decision and support LA enforcement
- Potentially transformational (albeit I expect we'll only use it in passing on possession claims)

## Housing standards

- Don't forget ss 9 and 11 LTA 1985
- And don't forget s.10A already in force for social landlords
- Expansion of s.10A to PRS
- New decent homes standard

## Prescribed information

- Are we (nearly) at a standard form of tenancy agreement? *cf* Renting Homes (Wales) Act 2016

## Recognise – and reduce – the power imbalance between LL and T

- LL required to join ombudsman service (Free redress for tenants)
- Greater Local Authority involvement (RROs, new duty around PRS enforcement)



# How is it doing this? (3)

## Empowering tenants and LAs (Tom)

- Rent repayment orders
- Partially overturning *Rakusen*
- Extending RROs to two years (limitation and monies)
- Conviction means maximum RRO must be made
- New RRO offences
- knowingly or recklessly misusing a possession ground,
- breach of a restriction on letting or marketing a dwelling-house
- provision of false information to the PRS Database

## LA enforcement

- More fixed penalty notices
- Fines now £7,000 - £40,000 (£30,000 cap under 2016 Act, will presumably be increased by SI under that Act)



# Rt. Hon. Angela Raynor MP

“We will deliver on our promise to transform the lives of millions of renters through our landmark Renters’ Rights Bill, which will make renting fairer, more secure and more affordable”



# Security of tenure and grounds for possession: the new landscape



Brooke Lyne



Sophie Gibson



# What are (or were) ASTs?

- **Introduced by Housing Act 1988**
- **Dramatic change from Rent Act 1977**
- **All assured tenancies entered into on or after 28 February 1997 were automatically ASTs (s.19A and Sch.2 Housing Act 1988)**
- **Most common form of private sector residential tenancy**
- **A form of 'assured tenancy' BUT without the security of tenure due to s.21 Housing Act 1988**



# How is the RRA 2025 changing ASTs?

## Abolition of ASTs

- **Section 2 RRA 2025 deletes the AST provisions from the Housing Act 1988**
- **No new ASTs may be created on or after 1 May 2026**

## Conversion of current ASTs to periodic assured tenancies

- **Sections 1 and 2 2025 Act, transitional provisions in paragraphs 1 and 2 of Schedule 6 to the 2025 Act**
- **After 1 May 2026, converted to assured tenancies**
- **Periodic – periods beginning on the day the rent is due to be paid**
  - E.g. fixed term tenancy which would have expired on 15 August 2026, rent paid on 15<sup>th</sup> of each month, is a periodic assured tenancy from 15 May 2026, monthly periodic tenancy
  - NTQ can be served by tenant on 15 May 2026 to terminate on 15 July 2026 prior to expiration of fixed term



# How is the RRA 2025 changing assured tenancies?

- **No more fixed terms**
  - Section 1 of the RRA 2025 inserting new s4A into the Housing Act 1988
  - S.45(1) Housing Act 1988 defines fixed term – any tenancy other than a periodic tenancy
  - Cannot evade by granting for initial fixed period to be followed by a periodic term: *Goodman v Evely* [2001] EWCA Civ 104; [2002] H.L.R. 53
  - s.13 RRA 2025 – new s.16E(1)(a) Housing Act 1988 prohibits purporting to let a dwelling-house for a fixed term, punishable by a financial penalty under new s.16I(1)(a) Housing Act 1988
- **Period can be no longer than one month (e.g. 1st of each month), alternatively can be every 28 days (4 weeks)**
  - Weekly still permitted
- **Additional exceptions to assured status in Schedule 1 to the Housing Act 1988**
  - Existing leases 7-21 yrs not assured tenancies – new para 3E, Sch.1 Housing Act 1988
  - New leases for 21+ yrs not assured tenancies – new para 3D, Sch.1 Housing Act 1988



# How is the RRA 2025 NOT changing assured tenancies?

- **Still need a court order for LL to terminate – s.5 Housing Act 1988**
- **Conditions for being an assured tenancy remain – s.1(1) Housing Act 1988**
  - Tenancy (cf e.g. licence)
  - Of a dwelling-house
  - Let as a separate dwelling
  - To an individual (cf e.g. company)
  - Who is a single (sole) or joint tenant
  - Where the tenant or at least one of the joint tenant occupies the house as their only or principal home
  - Not excluded by Schedule 1 to the Housing Act 1988
- **NTQ by one joint tenant effective to terminate periodic tenancy**
  - Common law rule remains - *Hammersmith and Fulham LBC v Monk* [1992] 1 AC 478
  - Statutory footing: s.20(3) Housing Act 1988



# Getting around the RRA – Ingenious Folly

## Re-emergence of the Tenancy / Licence Distinction

- Throwback to *Street v Mountford* [1985] A.C. 809
  - “[t]he manufacture of a five-pronged implement for manual digging results in a fork even if the manufacturer, unfamiliar with the English language, insists that he intended to make and has made a spade.”
- Genuine licences, incorrect labels and shams
- Property guardian cases
- Almshouse cases - *Watts v Stewart* [2016] EWCA Civ 1247; [2018] Ch. 423



# Getting around the RRA – Ingenious Folly

## The Rise in the Company Let?

- “A tenancy under which a dwelling-house [ in England]<sup>1</sup> is let as a separate dwelling is for the purposes of this Act an assured tenancy if and so long as—
  - (a) the tenant or, as the case may be, each of the joint tenants is an individual...”
- Tenancy let to a company = not an assured tenancy
- £100 to incorporate companies online



# Getting around the RRA – Ingenious Folly

## No Rent Exception

- No rent exception = not an assured tenancy (para 3, Sch.1, Housing Act 1998)
- The future imagined in a prophetic appeal – *Philips & Anor v Garraway* [2026] EWCA Civ 55



# Getting around the RRA – Ingenious Folly

## Live / Work

- A business tenancy under LTA 1954 cannot be an assured tenancy (para 4, Sch.1, Housing Act 1988)
- Mixed spaces for creative types
- Live / Work units – parachuting in planning concepts (*AHGR Ltd v Kane-Laverack* [2023] EWCA Civ 428)



# Getting around the RRA – Ingenious Folly

## A Rise in Resident Landlords?

- Resident landlord = cannot be an assured tenancy (para 10, Sch.1, Housing Act 1988)
- Requirements:
  - Dwelling forms part of a building
  - L satisfied only or principal home requirement at grant
  - L has continued to meet those requirements throughout



# Grounds for possession

## Ground 1

- Currently used when L needs to recover possession to occupy at their only or principal home (includes a notice requirement at the commencement of the tenancy)
- New – where L requires possession for themselves, or specified family member to occupy at their only or principal home
- Who counts?
  - Spouse / civil partner / partner / parent / grandparent / sibling / child / grandchild / child or grandchild of spouse or partner / includes half-blood relatives



# Grounds for possession

## Ground 1 continued...

- A mandatory ground
- Four months notice to be given by s.8 notice
- Only available after a minimum 12-month period



# Grounds for possession

## New Ground 1A

- A mandatory ground
- Mandatory ground where L intends to sell the property
- Subject to a 12-month minimum period
- Four months notice to be given by s.8 notice



# Grounds for possession

## Ground 1A – proving intention

- Objective and subjective elements?
- Akin to test applied under LTA 1954 for business tenancies perhaps?
- Witness evidence from L, and potentially relevant family member



# Grounds for possession - Abuse

## Grounds 1 and 1A – abuse?

- Section 12, Housing Act 1988 allows T to receive compensation where L obtains possession order owing to “misrepresentation or concealment of material facts”
- Rent Repayment Orders (s.98, RRA amends HPA 2016)
- Lessons from Scotland? (e.g. *Reynolds v Henry* 2024 UT 45)



# Grounds for possession - Abuse

## Grounds 1 and 1A – abuse?

- New duties under ss.16E, 16F, Housing Act 1988 (introduced by s.13, RRA) deterring abuse
- Penalties in s.16M, Housing Act 1988 to deter abuse (introduced by s.17, RRA)
- Prohibits letting or advertising the property for at least 12 months after obtaining possession
- Breach = offence
- Enforceable by LA
- Prosecution or financial penalty (up to £40K).



# Grounds for possession

## Ground 2

- Possession by mortgage lender
- Currently only allows lender to recover possession where tenancy pre-dated mortgage
- The new position is mandatory ground applies where power of sale exercisable, regardless of when mortgage granted
- Four months notice required
- No notice required at outset of tenancy



# Grounds for possession

## New Grounds 2ZA and 2ZB

- Apply where a L seeking possession is themselves a T under a superior lease and the L under the superior lease seeks to recover possession.

## New Grounds 2ZC and 2ZD

- Apply where L has become the landlord by virtue of s.18, 1988 Act (where an intermediate tenancy has come to an end).

## Ground 3 (holiday lets) – abolished



# Grounds for possession

## New Ground 4A

- Can be used where L of an HMO seeks to recover possession at the end of the academic year where all Ts were full-time students
- Four months notice required



# Grounds for possession

## New Ground 6B

- Can be used where L requires possession because of local authority enforcement action (e.g. possession required pursuant to prohibition order or refusal of HMO licence).
- On the making of such an order, the court may order L to pay compensation to T for damage or loss sustained in consequence of the order for possession (s.3(5)).



# Grounds for possession

## Ground 8 - amended

- Increased period of arrears to 13 weeks or three months (previously eight weeks or two months)
- Four weeks notice required (up from 2 weeks)
- Arrears attributable to delay paying universal credit are to be disregarded
- “When calculating how much rent is unpaid for the purpose of this ground, if the tenant is entitled to receive an amount for housing as part of an award of universal credit under Part 1 of the Welfare Reform Act 2012, any amount that was unpaid only because the tenant had not yet received the payment of that award is to be ignored”
- The fate of *North British Housing Association Ltd v Matthews* [2004] EWCA Civ 1736 ?



# Grounds for possession

## Grounds 10 and 11 (other rent grounds)

- Unchanged in terms of requirements
- But four weeks notice now required



# Grounds for possession

## Ground 12 (breach of tenancy)

- Wording unchanged
- So, if T unlawfully sublets, then this ground can be used in the same way that it would have been before
- 2 weeks notice to be given



# Section 8 – A reminder

## Notice

- Use prescribed form
- Specify all grounds relied upon
- Provide particulars of those grounds



# Practical points

- **Getting notices right**
- **Evidence**
- **Court capacity and delays**
- **Expectation management**



# Rent increases: how will it work?



Christopher Jacobs



Mattie Green



# Rent increases before the Renters' Rights Act 2025

Pre-Renters' Rights Act, landlords had several mechanisms available to increase rent on assured and assured shorthold tenancies.

- Rent Review Clauses
- Mutual Agreement
- Section 13 Notices



# Rent increases before the Renters' Rights Act 2025

## – S.13 Notices

Key features of this process:

- Notice periods
  - The minimum notice period depended on the tenancy type
- Frequency of increases
  - Rent could not be increased within 52 weeks of the start of the tenancy, and subsequent increases required a minimum of 52 weeks from the previous increase.
- Tenant's right to challenge in the FTT
  - The tenant could refer the notice to the First-tier Tribunal before the rent increase date by submitting a prescribed form.



# Rent increases before the Renters' Rights Act 2025

## – S.13 Notices

Key features of this process:

- Tribunal's determination
  - The rent at which the dwelling could reasonably be expected to be let in the open market by a willing landlord.
  - FTT could set a rent that was lower, higher, or the same as the proposed new rent.
- Backdating
  - Rent would take effect from the beginning of the new period specified in the notice (i.e., the rent increase could be backdated to when the landlord originally proposed it to take effect).
- Excessive Rents
  - An additional protection under section 22 of the Housing Act 1988 in relation to ASTs



# Rent increases under the Renters' Rights Act 2025: Overview

- **Single statutory procedure:**
  - All rent increases in the private rented sector will be made using the section 13 process as amended by the Act.
  - Section 13(4A): Rent for a period of an assured tenancy may not be greater than the rent for the previous period except by virtue of a section 13 notice, a determination under section 14, or a written agreement following such a determination
  - Landlords will be able to increase rents once per year to the market rate.
  - They must serve a "section 13" notice:
- **Abolition of rent review clauses:**
  - Any rent review clauses contained in tenancy agreements and automatic rent increases will be rendered void.



# Rent increases under the Renters' Rights Act 2025: Procedure

- **Serve Section 13 Notice:**
  - To increase rent, landlords must serve a section 13 notice in the prescribed form on the tenant.
  - The form will be published on GOV.UK.
  - The notice must specify the proposed new rent and the date from which it takes effect.
- **Notice Period Requirements:**
  - The landlord must give at least two months' notice before the new rent takes effect.
  - The proposed start date must also be: (1) At least 52 weeks after the first period of the tenancy began (or the first anniversary for assured agricultural occupancies); and (2) At least 52 weeks after any previous rent increase took effect.

Nb. Does not apply to “Relevant low-cost tenancies”



# Rent increases under the Renters' Rights Act 2025: Procedure

- **Tenant's Response Options:**
  - **Accept the increase:** Simply pay the new amount. If no challenge, the new rent takes effect as specified in the notice.
  - **Negotiate:** Landlord and tenant can agree a new rent which is lower than the proposed rent
  - **Challenge at the Tribunal:** Apply to the First-tier Tribunal under section 14(A3) before the starting date of the proposed new rent
  - **Challenge the notice validity:** Apply to the Tribunal under section 13B to determine whether the notice is valid



# Rent Increases under the Renters' Rights Act 2025: Applications to the FTT

- **Tenant's opportunities to apply to the FTT**

**New right to challenge at the outset:** Under new section 14(A2), tenants under any assured tenancy (other than relevant low-cost tenancies) may apply to the Tribunal to challenge the rent payable under the tenancy within six months of the beginning of the tenancy. This is a new protection not previously available.

**Challenge to proposed rent increases:** Under new section 14(A3), tenants may apply to the Tribunal to challenge a new rent proposed in a section 13 notice.



# Rent Increases under the Renters' Rights Act 2025: Tribunal's Determinations

- The FTT shall determine the rent at which the dwelling-house concerned might reasonably be expected to be let in the open market by a willing landlord
- Relevant factors:
  - Same periods as the tenancy to which the application relates
  - Determination at date of application or beginning of new period specified in the notice
  - Terms the same as current tenancy
  - Comparing similar properties in the area, size, condition, location and features
- Disregards:
  - Affect of sitting tenant
  - Certain relevant improvements
  - Reduction in value due to tenant failure to comply with tenancy



# Rent Increases under the Renters' Rights Act 2025: Effect of determination

- The rent payable under the tenancy following the determination is the "New Rent Amount"
- New Rent Amount is the lower of:
  - Open market rent determined by FTT
  - Proposed Rent (or current tenancy rent if no s.13 notice)
- The new rent amount takes effect from the new period specified in the notice unless the determination is after that date, in which case, the next new period – no backdating
- Power to extend for two months in cases of undue hardship



# Rent Increases under the Renters' Rights Act 2025: Particular Issues

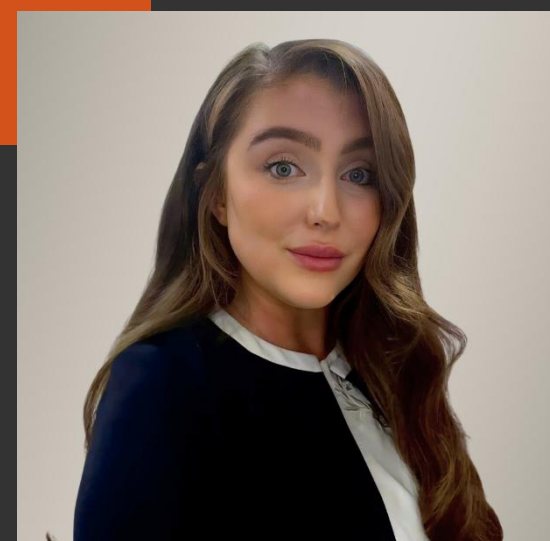
- **Tribunal capacity concerns:** Risk of overwhelmed
- **No risk for tenants challenging:** Cannot get higher rent; delays are "free"
- **SoS retained power:** No baseline data for backdating trigger
- **Investment impact:** May deter build-to-rent investment
- **Social media influence risk:** Potential campaigns encouraging mass challenges
- **Compliance critical:** Notice defects can delay even justified increases
- **Pre-commencement rush:** Expect spike in rent increases before 1 May 2026
- **Landlord exodus risk:** Some may exit the market rather than comply



# Professionalising the private rented sector



Peter Sibley



Katherine Traynor



# Professionalising the private rented sector



Peter Sibley



# “Residential Landlord”

- Section 63:

*...“residential landlord” means the landlord under a relevant tenancy of a dwelling in England that is not social housing...*



# “Residential Landlord” - *continued*

- “relevant tenancy”
- “dwelling” – see s.112(1) of the Commonhold and Leasehold Reform Act 2002 and s.63(1) of the Housing Act 1996
- “social housing” – part 2 of the Housing and Regeneration Act 2008
- Dynamic definition



# The private rented sector database or PRS database

## What do we know and when will it be coming into force?

- “The Secretary of State may by regulations...”
- Renters' Rights Act 2025: Implementation roadmap (November 2025) – phase 2 - “from late 2026”

## What is the PRS Database?

The PRS Database will be a publicly run mandatory database containing three types of entries; residential landlords are responsible for the first two types of entry and local housing authorities are responsible for the third type of entry, in which properties and landlords will be uniquely identified.



# PRS database – *continued*

## What information will need to be entered on the PRS Database?

Sections 77 to 81

Roadmap, paragraph 16 - “at minimum”:

- (i) the landlord’s contact details,
- (ii) the property details,
- (iii) safety information.



# **PRS database – *continued***

**What duties are imposed on private persons in respect of the PRS Database?**

Section 82(1) to (3) – three key duties.

**What happens if the duties are breached?**

1. No recovery of possession (unless ground 7 or 14A is relief on).
2. Financial penalties up to £7,000.
3. Potential criminal sanctions.



# **PRS database – *continued***

**What duties are imposed on local housing authorities?**

Responsibility for “enforcement entries”

**What about access to and use of information in database?**

Parts of the PRS Database are to be public.

Data sharing with other statutory and or enforcement authorities.



# PRS database – *continued*

1. It is coming later on this year – “late 2026”.
2. More detail is to come in the form of regulations.
3. It is mandatory.
4. Start getting information together now.



# Decent homes standard

## What is the DHS?

A set of requirements to “ensure that all PRS properties meet a minimum standard of housing quality and provide local councils with powers to take enforcement action if PRS properties fail to meet it.”

## Where are we at with the DHS?

Roadmap

The New Decent Homes Standard: policy statement

## What does the 2025 Act say about the DHS?

S.100

Schedule 4

The New Decent Homes Standard: policy statement



# Professionalising the private rented sector



Katherine Traynor



# Duties of landlords etc

- Duty of landlord and contractor to give statement of terms etc. (s.12)
- Other duties (s.13)
- Landlords acting through others (s.14)
- Landlords etc: financial penalties and offences (s.15)
- Duties of landlords etc., penalties and offences (s.17)



# Statement of Terms

- "Statement of Terms"
- When must it be given by?
- Does this apply to third parties?



# Content of the written statement of terms

- Draft Statutory Instrument: the Assured Tenancies (Private Rented Sector) (Written Statement of Terms etc and Information Sheet) (England) Regulations 2026
- Core Tenancy Information
- Additional Information
- Part of the Tenancy Agreement or Separate?



# Other duties

- S.13 inserts s.16E into the HA 1988, imposing a series of prohibitions on "relevant persons"
- A relevant person must *not*:
  - Purport to let on a fixed term (s.16E(1)(a));
  - Purport to bring the tenancy to an end by notice to quit (s.16E(1)(b));
  - Purport to bring the tenancy to an end orally or require that it be brought to an end orally (s.16E(1)(c));
  - Serve a purported notice of possession on the tenant (s.16E(1)(d));
  - Rely on a possession ground without a reasonable belief that the landlord could obtain an order on that ground (s.16E(1)(e));
  - Rely on an "advance notice" ground if no statement was given under s.16D(3) (s.16E(1)(f)).
- Restrictions on reletting and marketing apply where a relevant person has relied on Ground 1 or Ground 1A during the "restricted period" (typically 12 months) (s.16E(2) and (3)).



# Landlords acting through others

S.14 inserts s.16H into the HA 1988

S.14 provides:

“Landlords acting through others:

In the 1988 Act, after section 16G (inserted by section 13 of this Act) insert –

“16H Landlords acting through others

Nothing in section 16D or 16E prevents a landlord from fulfilling or contravening an obligation through another person acting on their behalf”



# Financial penalties and offences

s.15 inserts ss.16I to 16L into the HA 1988, creating a framework of financial penalties and criminal offences for non-compliance with the duties in ss.16D and 16E.

Financial penalties: s.16I

Criminal offences: s.16J

Financial penalties as alternatives to prosecution: s.16K



# Duties of landlords etc., penalties and offences: Interpretation

“Legal representative”

“Local housing authority”

“Purported notice of possession”

“Relevant person”



# Transitional provisions for existing tenancies

Schedule 6, paragraph 7 provides for the transitional framework for compliance for existing tenancies.

“Written Tenancies”: paragraph 7(1)-(2)

“Oral Tenancies”: paragraph 7(5)

What is the effect of paragraph 7(3)?



# Landlord redress scheme

Part 2, Chapter 2 (ss.64-71) introduces landlord redress scheme for residential landlords in the private rented sector

S.64(1): the Secretary of State may make regulations requirement a residential landlord to be a member of a landlord redress scheme

“Landlord redress scheme”

“Prospective residential tenant”



# Redress scheme

Landlords must provide "relevant property information" to the scheme administrator on joining and must notify any changes as soon as reasonably practicable (s.64(6) and (7)).

The Secretary of State must be satisfied that all persons required to be members will be eligible to join before imposing the requirement (s.64(8)).

Schemes may also provide for voluntary membership, voluntary mediation services, and the investigation of complaints under a voluntary jurisdiction (s.64(9)).



# Approval and designation of schemes

Section 65 requires the Secretary of State to set out conditions for approval or designation by regulations.

These conditions must include provisions for:

**Appointment of an independent individual to oversee complaint investigation and determination (s.65(2)(a));**

**Complaints about non-compliance with any codes of practice for residential landlords (s.65(2)(c));**

**Time for scheme members to attempt resolution before a complaint is accepted (s.65(2)(d));**

**Forms of redress: apology/explanation, compensation, and other actions in the complainant's interest (s.65(2)(j));**

**Expulsion only in specified circumstances, after compliance steps have been taken, and reviewed by an independent person (s.65(2)(l));**

**Fee structures for compulsory and voluntary aspects (s.65(4)).**



# Financial penalties and offences

**S.66: Financial penalties**

**s.67: Offences**

**S.68: Decision under a landlord redress scheme may be made enforceable as if it were a court order**



# **Schedule 3 and other amendments (ss.70-73)**

**S.70 empowers the Secretary of State to issue guidance for scheme administrators and LHAs on cooperation and the exercise of their functions. LHAs must have regard to such guidance.**

**S.71 confirms key definitions for Chapter 2.**

**S.72 amends the social rented sector scheme**

**S.73 introduces Schedule 3,**

**Schedule 3 also provides for collaborative investigations between the housing ombudsman and individuals investigating complaints under the landlord redress schemes.**



# Key takeaways

From 1 May 2026, a written statement of terms must be provided to tenants under new assured tenancies before the tenancy is entered into.

Existing written tenancies: landlords must supply the government-produced information sheet by 31 May 2026 (published in March 2026).

Existing oral tenancies: a full written statement must be provided within one month of commencement.

Non-compliance carries significant financial and criminal consequences.

Legal representatives are excluded from the definition of "relevant person" under s.17, but agents and other representatives are not.



# It's all about the money: rent repayment orders and deposits



Tom Morris



# Housing Act 2004

## Section 73

“(3) No rule of law relating to the validity or enforceability of contracts in circumstances involving illegality is to affect the validity or enforceability of –

- (a) any provision requiring the payment of rent or the making of any other periodical payment in connection with any tenancy or licence of a part of an unlicensed HMO, or
- (b) any other provision of such a tenancy or licence.”



# Housing Act 2004

## Section 73

“(4) But amounts paid in respect of rent or other periodical payments payable in connection with such a tenancy or licence may be recovered in accordance with subsection (5) and section 74...”



# Housing Act 2004

## Section 73

“(5) If –

- (a) An application in respect of an HMO is made to the appropriate tribunal by the local housing authority or an occupier of a part of the HMO, and
- (b) The tribunal is satisfied as to the matters mentioned in subsection (6) or (8)

The tribunal may make an order (a “rent repayment order”) requiring the appropriate person to pay to the applicant such amount in respect of the relevant award or awards of universal credit... or (as the case may be) the periodical payments paid...”



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	<b><i>Act</i></b>	<b><i>section</i></b>	<b><i>general description of offence</i></b>
1	Criminal Law Act 1977	section 6(1)	violence for securing entry
2	Protection from Eviction Act 1977	section 1(2), (3) or (3A)	eviction or harassment of occupiers
3	Housing Act 2004	section 30(1)	failure to comply with improvement notice
4		section 32(1)	failure to comply with prohibition order etc
5		section 72(1)	control or management of unlicensed HMO
6		section 95(1)	control or management of unlicensed house
7	This Act	section 21	breach of banning order

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# Housing and Planning Act 2016

## 40 Introduction and key definitions

- (1) This Chapter confers power on the First-tier Tribunal to make a rent repayment order where a landlord has committed an offence to which this Chapter applies.
- (2) A rent repayment order is an order requiring the landlord under a tenancy of housing in England to—
  - (a) repay an amount of rent paid by a tenant, or
  - (b) pay a local housing authority an amount in respect of a relevant award of universal credit paid (to any person) in respect of rent under the tenancy.



## ***Rakusen v Jepsen* [2020] UKUT 298 (LC)**

“[64] The scope of the additional jurisdictions conferred on the FTT is defined by reference to the commission of specific offences, with the only qualification identified being that the person committing the offence must be a landlord. I can think of no policy reason why the objective of deterring such offense should extend only to immediate landlords and not to superior landlords. If such a limitation had been intended it could have been made clear, as it was in s.73(1), 2004 Act. The facts of this case are not unusual and the phenomenon of intermediate landlords taking relatively short leases of houses with few repairing responsibilities with a view to subletting to occupational tenants is sufficiently commonplace to have obtained the recognised label “rent to rent”. The effectiveness of rent repayment orders would be considerably reduced if the “rogue landlords” whom the orders are intended to deter could protect themselves against the risk of rent repayment by letting to an intermediate while themselves retaining responsibility for licensing and for the condition of the accommodation”.



## ***Rakusen v Jepsen* [2020] UKUT 298 (LC)**

**“[32] As a matter of first impression I nevertheless agree with Mr Morris that the language of s.40(2)(a) is suggestive of a single direct relationship of landlord and tenant.”**



## ***Rakusen v Jepsen* [2021] EWCA Civ 1150**

**“[46] As the Deputy President observed in his judgment at para 32, “As a matter of first impression... the language of section 40(2)(a) is suggestive of a single direct relationship of landlord and tenant”. First impressions can sometimes prove to be wrong; but in this case, the more closely one examines the possible alternative construction, the clearer it becomes that those impressions are plainly correct.**

**“[55] Unfortunately, in my judgment, the Deputy President fell into error by regarding it as significant that the offences listed under section 40(3) could be committed by a superior landlord... This is what appears to have led him to depart from the natural construction of section 40(2)(a) instead of trusting his first impressions.”**



## ***Rakusen v Jepsen* [2021] EWCA Civ 1150**

**“[40] I entirely accept that Chapter 4 of the 2016 Act is aimed at combatting a significant social evil and that the courts should interpret the statute with that in mind. I also accept that the policy of requiring landlords to comply with their obligations or leave the sector is one that a legislator could well regard as applicable to superior landlords as well as immediate landlords. It nevertheless remains the case that Parliament has legislated to implement that policy only to the extent provided for by the language of section 40(2).”**

**“[41] ...If this concern proves well-founded, then Parliament be moved to amend section 40(2)(a), but we have to interpret the provision as it presently stands”.**



## ***Rakusen v Jepsen* [2023] UKSC 9**

**“[37] At first sight, it was a strong submission of Mr Fitzpatrick that because, plainly, a superior landlord may commit any of the relevant offences and, in some situations, a superior landlord may be the only person committing the relevant offence, it would undermine or, at least detract from, the purpose of, or policy behind, RROs if they were not available against such rogue landlords. The provisions should therefore be read, so it was submitted, with that legislative purpose at the forefront of one’s attention. On that submission, as there is nothing that expressly restricts RROs to immediate landlords, superior landlords should be included within the references to landlord and tenant.”**

**“[38] Although at first sight having force, we reject that submission.”**



## ***Rakusen v Jepsen* [2023] UKSC 9**

**“[41] We fully recognise the difficulty. However, as Mr Morris submitted... the RRO must be seen against the range of sanctions available against rogue landlords. First, there is the criminal law itself under which the superior landlord can be found guilty and fined. Secondly... a local housing authority can impose a financial penalty... if satisfied, to the criminal standard, that one of the relevant housing offences has been committed... Thirdly, Chapter 2 of Part 4 of the 2016 Act allows a banning order to be made... Fourthly, Chapter 3 of Part 4 of the Act requires a database of rogue landlords and property agents to be established. Finally, in the event that a rogue landlord were to set up a straw company as a shield against liability to an RRO, the directors of the company may risk liability for wrongful trading under section 214 of the Insolvency Act 1986.”**



## ***Rakusen v Jepsen* [2023] UKSC 9**

**“[43] Having said all that, we accept that the interpretation we take renders RROs less effective than they perhaps could be if they were to be made available against superior landlords. But in our view that development would undermine the clear definition of an RRO, as set out in section 40(2) of the 2016 Act, and would therefore require new legislation. In other words, if this is thought to be a problem any reform would be a matter for Parliament and cannot be achieved through a distorted interpretation of the relevant provisions of the 2016 Act.”**



# Renters Rights Act 2025

## Section 103

- “(1) This Chapter confers power on the First-tier Tribunal to make a rent repayment order where an offence to which this Chapter applies has been committed by—
- (a) a landlord under a tenancy of housing in England, or
  - (b) any superior landlord in relation to such a tenancy.



# Renters Rights Act 2025

## Section 103

- (2) A rent repayment order is an order requiring the landlord or superior landlord who committed the offence to—
- (a) pay a tenant an amount in respect of rent paid by or on behalf of the tenant (whether the rent was paid to the landlord or superior landlord against whom the order is made, or to another person), or
  - (b) pay a local housing authority an amount in respect of a relevant award of universal credit paid (to any person) in respect of rent under the tenancy.



# Renters Rights Act 2025

## Section 103

(2A) In a case where the offence was committed by a superior landlord—

- (a) references in the following provisions of this Chapter to the landlord are to be read as references to the superior landlord, and
- (b) housing in relation to which the person in question is a superior landlord is to be treated for the purposes of this Chapter as let by that person.”



# Renters Rights Act 2025

(5) In [section 44](#) (amount of order: tenants)—

(a) in [subsection \(2\)](#)—

- (i) after “rent paid” (in the first place) insert “by, or on behalf of, the tenant”,
- (ii) for “during” substitute “in respect of”,
- (iii) in the heading to the second column to the table, after “by” insert “, or on behalf of,”, and
- (iv) for “12 months” (in both places) substitute “2 years”,

(b) in [subsection \(3\)](#)—

- (i) for “repay” substitute “pay”, and
- (ii) in paragraph (a), after “paid” insert “by, or on behalf of, the tenant”, and

(c) in subsection (4), after paragraph (a) insert—

- “(aa) the amount of any rent received by the tenant in respect of the period mentioned in the table in relation to the housing let to the tenant.”.



# Housing and Planning Act 2016

## Section 44

- (3) The amount that the landlord may be required to repay in respect of a period must not exceed—
  - (a) the rent paid in respect of that period, less
  - (b) any relevant award of universal credit paid (to any person) in respect of rent under the tenancy during that period.
- (4) In determining the amount the tribunal must, in particular, take into account—
  - (a) the conduct of the landlord and the tenant,
  - (b) the financial circumstances of the landlord, and
  - (c) whether the landlord has at any time been convicted of an offence to which this Chapter applies.



# Renters Rights Act 2025

## Section 103

(7) After [section 46](#) insert—

**“46A      Amount of order: supplementary**

- (1) A rent repayment order made against more than one landlord must provide for the landlords to be jointly and severally liable for the amount due under the order.
- (2) If a rent repayment order (“the original order”) has been made in respect of rent under a tenancy and another rent repayment order (“the new order”) is made in respect of rent under the same tenancy, the new order may not require payment to be made in respect of any period in respect of which the original order required payment to be made.”



# Renters Rights Act 2025

**98 Rent repayment orders for offences under the [Housing Act 1988](#) and [sections 67](#) and [92](#) of this Act**

(1) The [Housing and Planning Act 2016](#) is amended as follows.

(2) In [section 40](#) (introduction and key definitions), in [subsection \(3\)](#)—

(a) at the end of line 2 of the table in [that subsection](#) insert—

---

“2A	<a href="#">Housing Act 1988</a>	<a href="#">section 16J(1)</a>	Knowingly or recklessly misusing a possession ground
2B		<a href="#">section 16J(2)</a>	Breach of restriction on letting or marketing dwelling-house
2C		<a href="#">section 16J(3)</a>	Tenancy reform: continuing breaches”;

---



# Renters Rights Act 2025, section 15

## 16J Offences

- (1) A relevant person is guilty of an offence if, in relation to an assured tenancy—
  - (a) the person relies on a ground in Schedule 2, knowing that the landlord would not be able to obtain an order for possession on that ground, or being reckless as to whether the landlord would be able to do so, and
  - (b) the tenant surrenders the tenancy within the period of four months beginning with the date the ground was relied on, without an order for possession of the dwelling-house being made.



# Renters Rights Act 2025, section 15

## 16J(2): person guilty of offence if contravene s.16E(2) or (3)

- (2) Subject to section 16F, where a relevant person relies on Ground 1 or 1A in Schedule 2 in relation to an assured tenancy, the landlord must not, within the restricted period—
  - (a) let the dwelling-house on a tenancy for a term of 21 years or less, or
  - (b) permit a person to occupy the dwelling-house—
    - (i) under a licence to occupy, and
    - (ii) for monetary consideration.



# Renters Rights Act 2025, section 15

## 16J(2): person guilty of offence if contravene s.16E(2) or (3)

- (3) Subject to section 16F, where a relevant person relies on Ground 1 or 1A in Schedule 2 in relation to an assured tenancy, a relevant person in relation to that tenancy must not—
- (a) within the restricted period, market the dwelling-house to let on a tenancy for a term of 21 years or less,
  - (b) within the restricted period, market the dwelling-house to be occupied—
    - (i) under a licence to occupy, and
    - (ii) for monetary consideration,
  - (c) authorise another person to market the dwelling-house to let on a tenancy for a term of 21 years or less, so far as the authorisation would allow that other person to market it within the restricted period, or
  - (d) authorise another person to market the dwelling-house to be occupied—
    - (i) under a licence to occupy, and
    - (ii) for monetary consideration,so far as the authorisation would allow that other person to market it within the restricted period.



# Renters Rights Act 2025, section 15

- (3) A person is guilty of an offence if—
- (a) a relevant penalty has been imposed on the person and the final notice imposing the penalty has not been withdrawn, and
  - (b) the conduct in respect of which the penalty was imposed continues after the end of the period of 28 days beginning with—
    - (i) the day after that on which the penalty was imposed on the person, or
    - (ii) if the person appeals against the final notice in respect of the penalty within that period, the day after that on which the appeal is finally determined, withdrawn or abandoned.



# Renters Rights Act 2025

(d) at the end of the table in [that subsection](#) insert—

“8	Renters’ Rights Act 2025	<a href="#">section 67(1)</a>	Landlord redress schemes: continuing breaches
9		<a href="#">section 92(1)</a>	Private rented sector database: provision of false or misleading information
10		<a href="#">section 92(2)</a> (but only if the penalty imposed relates to a breach of a requirement imposed by <a href="#">section 82(3)</a> )	Private rented sector database: continuing breaches”.



# Renters Rights Act 2025

## Section 67(1)

- (1) A person commits an offence if—
- (a) a relevant penalty has been imposed on the person and the final notice imposing the penalty has not been withdrawn, and
  - (b) the conduct in respect of which the penalty was imposed continues after the end of the period of 28 days beginning with—
    - (i) the day after that on which the penalty was imposed on the person, or
    - (ii) if the person appeals against the final notice in respect of the penalty within that period, the day after that on which the appeal is finally determined, withdrawn or abandoned.



# Renters Rights Act 2025

## Section 92(1)

### 92 Offences

- (1) A person commits an offence if the person knowingly or recklessly provides information to the database operator which is false or misleading in a material respect in purported compliance with a requirement imposed by regulations under [this Chapter](#).



# Renters Rights Act 2025

## Section 92(2)

(2) A person commits an offence if—

- (a) a relevant penalty has been imposed on the person and the final notice imposing the penalty has not been withdrawn, and
- (b) the conduct in respect of which the penalty was imposed continues after the end of the period of 28 days beginning with—
  - (i) the day after that on which the penalty was imposed on the person, or
  - (ii) if the person appeals against the decision to impose the penalty within that period, the day after that on which the appeal is finally determined, withdrawn or abandoned.

**Only if penalty imposed relates to breach of requirement imposed by 82(3)...**



# Renters Rights Act 2025

## Section 82(3)

- (3) A person who is a residential landlord in relation to a dwelling is under a duty to ensure that—
  - (a) there is an active landlord entry in the database in respect of the person and an active dwelling entry in the database in respect of the dwelling, and
  - (b) any requirements relating to the entries imposed by regulations under [section 78](#) are complied with.



# Renters Rights Act 2025

## 104 Rent repayment orders: liability of directors etc

In the [Housing and Planning Act 2016](#), after section 51 insert—

### “51A Landlord which is body corporate: liability of directors etc

(1) This section applies where—

(a) a landlord which is a body corporate has committed an offence to which this Chapter applies, and

(b) the offence—

(i) was committed with the consent or connivance of a relevant person in relation to the body corporate, or of a person purporting to act in the capacity of a relevant person in relation to the body corporate, or

(ii) was a specified offence and was attributable to any neglect on the part of such a person.

(2) That person, as well as the body corporate, is treated for the purposes of this Chapter as having committed the offence.

(3) In this Chapter a reference to the landlord includes that person.



# Renters Rights Act 2025

(4) In this section—

“relevant person” means—

- (a) in relation to a body corporate other than one the affairs of which are managed by its members, a director, manager, secretary or other similar officer of the body;
- (b) in relation to a body corporate the affairs of which are managed by its members, a member who exercises functions of management with respect to it;

“specified offence” means an offence under—

- (a) [section 1\(2\)](#) of the [Protection from Eviction Act 1977](#);
- (b) [section 16J\(2\)](#) or [\(3\)](#) of the [Housing Act 1988](#);
- (c) [section 30\(1\)](#), [32\(1\)](#), [72\(1\)](#) or [95\(1\)](#) of the [Housing Act 2004](#);
- (d) section 21 of this Act;
- (e) [section 67\(1\)](#) or [92\(2\)](#) of the Renters’ Rights Act 2025.”



# Renters Rights Act 2025

(7) After [section 46](#) insert—

**“46A      Amount of order: supplementary**

- (1) A rent repayment order made against more than one landlord must provide for the landlords to be jointly and severally liable for the amount due under the order.
- (2) If a rent repayment order (“the original order”) has been made in respect of rent under a tenancy and another rent repayment order (“the new order”) is made in respect of rent under the same tenancy, the new order may not require payment to be made in respect of any period in respect of which the original order required payment to be made.”

(8) In [section 52](#) (interpretation), in subsection (1), in the appropriate place insert—

““landlord” is to be read in accordance with section 40(2A);”



# ***Rakusen v Jepsen* [2023] UKSC 9**

Principle against doubtful penalisation (*Bennion, Bailey and Norbury on Statutory Interpretation*, section 26.4:

“It is a principle of legal policy that a person should not be penalised except under clear law. This principle forms part of the context against which legislation is enacted and, when interpreting legislation, a court should take it into account.”

“[58] ...In our view, although unnecessary to rely on it, the principle against doubtful penalisation is a further factor supporting the straightforward interpretation set out above.”



# Deposit protection!

Sections 212 – 215, Housing Act 2004

Section 26, Renters Rights Act 2025: will apply the requirements to Assured Tenancies.

- Tenancy deposits received in connection with assured tenancy must be protected.
- The prescribed information must be given within the requisite 28-day period.



# Deposit protection!

## Section 215, as amended.

### **“215      Sanctions for non-compliance**

- (1) Where a tenancy deposit has been paid in connection with an assured tenancy, the court may make an order for possession of the dwelling-house let on the assured tenancy only if the tenancy deposit is being held in accordance with an authorised scheme.
- (2) Where a tenancy deposit has been paid in connection with an assured tenancy, the court may make an order for possession of the dwelling-house let on the assured tenancy only if such requirements of the scheme as fell to be complied with by the landlord on receiving the tenancy deposit have been complied with (whether or not within the period mentioned by section 213(3)) in relation to the tenancy deposit.
- (3) Where a tenancy deposit has been paid in connection with an assured tenancy, the court may make an order for possession of the dwelling-house let on the assured tenancy only if the requirements of section 213(5) and (6)(a) have been complied with.



# Deposit protection!

## Section 215, as amended.

- (4) Subsections (1) to (3) do not apply in relation to an order for possession made on Ground 7A or 14 in [Schedule 2](#) to the [Housing Act 1988](#) (whether or not any other grounds for possession are met).
- (5) Subsections (1) to (3) do not apply where—
  - (a) the tenancy deposit has been returned to the tenant in full or with such deductions as are agreed between the landlord and tenant, or
  - (b) an application to the county court has been made under section 214(1) and has been determined by that court, withdrawn or settled by agreement between the parties.



# Penalty payments

## Section 214, 2004 Act

Where section 213(3) or (6) not complied with (obligation to protect deposit / obligation to give prescribed information):

“(4) The court must order the landlord to pay to the applicant sum of money not less than the amount of the deposit and not more than three times the amount of the deposit within the period of 14 days beginning with the making of the order.”



# **Lowe v Charterhouse [2025] EWCA Civ 857**

**Housing (Tenancy Deposits) (Prescribed Information) Order 2007:**

**“The following is prescribed information for the purposes of section 213(5) of the Housing Act 2004: (...)**

**(g) the following information in connection with the tenancy in respect of which the deposit has been paid...**

**(vi) the circumstances when all or part of the deposit may be retained by the landlord, by reference to the terms of the tenancy; and**

**(vii) confirmation (in the form of a certificate signed by the landlord) that (aa) the information he provides under this sub-paragraph is accurate to the best of his knowledge and belief; and**

**(bb) he has given the tenant the opportunity to sign any document containing the information provided by the landlord under this article by way of confirmation that the information is accurate to the best of his knowledge and belief.”**



# **Lowe v Charterhouse [2025] EWCA Civ 857**

*The Landlord confirms that the information, provided to the Agent and the Tenant is accurate to the best of his knowledge and belief and that the tenant had the opportunity to examine the information*

*The Tenant confirms he has been given the opportunity to examine this information. The Tenant confirms by signing this document that to the knowledge of the Tenant the information above is accurate to the best of his knowledge and belief.*

***Signed by the Tenant***

***Signed by the Landlord/Agent***



# **Lowe v Charterhouse [2025] EWCA Civ 857**

*Please find enclosed your certificate of registration with The Dispute Service confirming your deposit has been protected. I also enclose an explanation leaflet 'What is the Tenancy Deposit Scheme?' and additionally the 'Prescribed Information' as required under the legislation.*

*We require you to sign the 'Prescribed Information' and to return one copy to us and retain one copy for your records.*

*Yours sincerely*

**STEPHEN BIRTWISTLE**



# Lessons for practitioners!

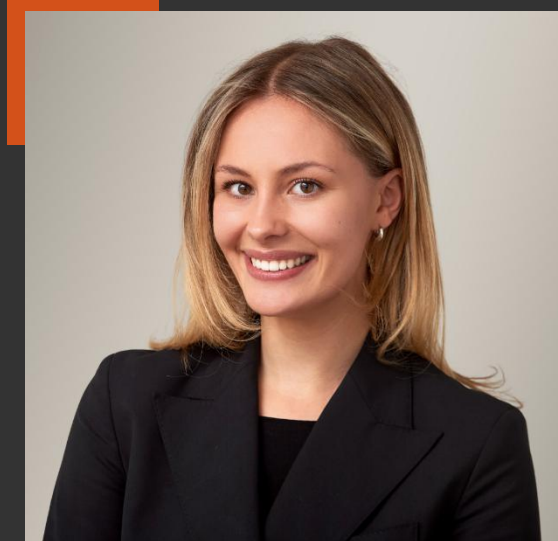
- (1) Non-compliance with statutory requirements on current law is far from fatal.
- (2) Where a tenant raises a technical point, consider whether the *Lowe v Charterhouse* reasoning can save the landlord.
- (3) Consider in particular whether signed covering letter can fill a signature gap...
- (4) Tenants: fight back against *Mannai* mission-creep!



# The old to the new: transition and court capacity



Richard Clarke



Poppy Kemp



# Transitional provisions



Poppy Kemp



# Where are we with implementation?

- The RRA received royal assent on 27 October 2025.
- It has not yet come into force completely.

The RRA Commencement SI No 1 was supposed to come into force on 27 December 2025 but is not yet in force.

See also:

- **S.145(2) - *“This Act comes into force for the purposes of making regulations on the day on which it is passed.”***
- **s.145(5) – which brings into force (chapter 2 of Part 1, s59, s110, chapter 3 of part 4) two months after royal assent.**
- **Section 145(6) which brings s111 into force immediately.**
- **Section 145(8) which explains that different days may be appointed for social housing assured tenancies vs assured tenancies which are not social housing assured tenancies.**
- **The Renters’ Rights Act 2025 (Commencement) (Wales) Order 2026 – brings into force Chapter 4, Part 1 for Wales**



# What are the government's implementation phases?

- The Government has set out three “implementation phases”:

## **Phase 1 (due on 1 May 2026)**

- Abolishing s.21
- Converting ASTs into periodic tenancies
- Reforming possession grounds
- Limiting rent increases to once a year
- Banning rental bidding and bidding in advance
- Making it illegal to discriminate against renters with children/in receipt of benefits
- Introducing the right to request a pet
- Strengthening local authority enforcement mechanisms

**Phase 2 (due in 2026/2028) – Includes application of the above reforms to the social rented sector and rollout of a Private Rented Sector database and ombudsman.**

**Phase 3 (due “tbc”) – Includes introduction of a Decent Homes Standard.**



# Roadmap

- The transitional provisions can be found in sch 6 to the RRA
- I will be discussing the transitional provisions with a focus on:
  - **S.21 notices**
  - **The meaning of the “commencement date”**
  - **S.8 notices**
  - **When a landlord can rely on some of the “new grounds”**
  - **The provision of information in writing**
  - **Wash-up points**



# Section 21 notices

- Section 21 notices are abolished by the RRA (section 2).
- The transitional provisions distinguish between:
  - (1) where a valid section 21 notice has been served and where a claim form for a section 21 possession is “requested” prior to commencement date (Sch 6, para 3); and
  - (2) where a valid section 21 notice has been served but the claim form for a section 21 possession has not been “requested” (sch 6, para 4)



# What is the commencement date?

- Sch 16, para 18:

**“In this Schedule “commencement date” ... [has] the meaning given by section 146”.**

- Section 146(3)

**“(3) In this section "commencement date" means the day on which Chapter 1 of Part 1 comes into force in accordance with section 145 (and accordingly where different days are appointed for different purposes in relation to that Chapter, a reference in this Act to the commencement date is a reference to the day on which that Chapter comes into force for the purposes of the tenancy to which the reference relates)**

- Section 145(1)

**(1) This Act comes into force on such day as the Secretary of State may by regulations made by statutory instrument appoint, subject to subsections (2) to (6).**



# What is the commencement date?

- No regulations yet!
- However, the Government Guidance suggests it will be 1 May 2026



# So what does this all mean in relation to s.21 notices?

- Where a valid section 21 notice has been served and where a claim form for a section 21 possession is “requested” prior to commencement date (sch 6, para 3):
  - If immediately before 1<sup>st</sup> May 2026, possession proceedings have not begun or have not been concluded, then the section 21 notice remains valid until proceedings are concluded.
  - Only once proceedings are concluded do the amendments made by Chapter 1 of Part 1 apply in relation to the tenancy. This means that, during proceedings, the lease will remain an AST.



# So what does this all mean in relation to s.21 notices?

Where a valid section 21 notice has been served but the claim form for a section 21 possession has not been “requested” (sch 6, para 4)

**Possession proceedings may only begin if the landlord requests the claim is issued by by whichever of the following comes *first*.**

- (1) Six months (for an AST) or four months (for a periodic tenancy) beginning with the date specified in the s21 notice; or
  - (2) Three months beginning with the commencement date (this will be **31 July 2026**).
- The reforms will not apply to the tenancy in question until the section 21 notice is invalid: this will occur (a) if the landlord has not requested the claim form in time, or (b) when possession proceedings have concluded.



# What about section 8 notices?

- Act makes reforms to section 8 notices such as the introduction of new mandatory grounds and different notice periods for the grounds of possession.
- When is the last date an “old” s.8 notice can be relied on?
  - Where a s.8 notice has been given and the claimant has requested the court to issue prior to the commencement date, the notice is valid until the proceedings are concluded (sch 6, para 16)
  - Where a s.8 notice has been given prior to the commencement date but the claimant has not requested the court to issue the claim form, the notice remains valid (sch 6, para 17):
    - a) Until the end of the applicable period or
    - b) Where the claimant has requested the court to issue the claim before the end of the applicable period, until possession proceedings are concluded.
      - The applicable period is 12 months included in the notice under s.8 or three months beginning with the commencement date, if that three-month period ends before the 12 month period.
      - Means that you have to issue by 31<sup>st</sup> July 2026.



# Other grounds and transitional provisions

- Student accommodation ground (para 13, sch 6)
- Redevelopment ground (para 14, sch 6)
- Stepping stone accommodation ground (para 15, sch 6)



# Provision of information in writing

- Where an existing tenancy is wholly or partly in writing, the landlord will have one month from 1 May 2026 (ie until **31 May 2026**) to give the tenant an information sheet about the changes in the Act (Sch 6, para 7(2)).
- Where a tenancy is wholly oral, the landlord must provide the tenant with a written statement of terms also within one month of the commencement date (Sch 6, para 7(5)).
- Potential issue: What if you don't know that you have entered into a tenancy?



# Wash-up points

- The Act does not impact the following provided they occurred before the commencement date:
  - Rent increase (para 6, sch 6).
  - Liability for conduct which would (after the commencement date) give rise to financial liability/ constitute an offence (para 8, sch 6).
  - Notice to quit (para 9, sch 6).



# Court and tribunal capacity



Richard Clarke



# Court capacity – where are we now?

- A system under pressure, with particular challenges in London and the South East;
- In London and the South East:
  - Persistent challenges in recruiting sufficient civil District Judges;
  - Consequential heavy reliance on Deputy District Judges, with impacts on efficiency;
  - Significantly reduced administrative capacity;
  - Reform programme, particularly of IT / case management systems, showing mixed results.



# Judicial capacity – permanent judges

YEAR	NUMBER OF CIVIL DISTRICT JUDGES (PERMANENT)	POPULATION OF ENGLAND AND WALES / POPULATION PER JUDGE
2011	444	56,170,927 (126,511)
2015	441	57,881,415 (131,250)
2020	419	59,430,444 (141,838)
2021	403	59,660,524 (148,041)
2022	413	60,278,591 (145,953)
2023	437	61,099,801 (139,816)
2024	453	61,806,682 (136,438)
2025	477	Unavailable



# Judicial capacity – regional variations

- MoJ evidence submitted to the Senior Salaries Review Body for 2026/2027:

“Whilst the District Judge (Civil) headcount increased from 453 to 477 in 2025, as set out in MoJ’s 2025 SSRB evidence, **successive District Judge recruitment has resulted in shortfalls**. This has ranged from 33 to 63 in the last 6 recruitment rounds (each for around 100 vacancies). But whilst most regions are filling their vacancies, and in some cases receiving more judges than expected, **shortfalls are particularly concentrated and persistent in London and the South East.**”



# Judicial capacity – deputy judges

YEAR	NUMBER OF CIVIL DISTRICT JUDGES (DEPUTIES)
2011	788
2015	622
2020	683
2021	753
2022	776
2023	844
2024	888
2025	784



# Use of deputy judges: impacts

- MoJ 2026/27 evidence to the SSRB:

“The senior judiciary’s view is that 80% of judicial court sittings should be undertaken by salaried judges and 20% by fee-paid judges. However, because of the shortfalls in salaried recruitment, the ratio of salaried and fee-paid judges may be different between regions and jurisdictions. For example, in 2024 fee-paid judges sat around 37% of the total days sat in Civil...”



# Use of deputy judges: impacts

- MoJ 2026/27 evidence to the SSRB continues:

“The Master of the Rolls suggested in his evidence in March 2025 to the Justice Select Committee’s inquiry on the work of the County Court, that the over-reliance on Deputy District Judges in London and the South East meant that less experienced, and therefore less efficient, judges handle cases which could add to the delays in these regions, therefore impacting timeliness.”



# Sitting days

- In 2024, across the County Court as a whole, sitting days were 190,000 (down 8% from 2023, when there where 207,000);
- For that period, days sat by Deputy District Judges fell by 19% to 37,000.



# County court administrative capacity

- Significant reductions in administrative capacity;
  - In 2011, HMCTS as a whole had c.22,200 staff (19,900 FTE);
  - In 2025, HMCTS as a whole had c.18,500 staff (16,200 FTE);
  - On a FTE basis, an 18.5% reduction.
- Staff retention difficulties = c.12% of staff are agency and contract staff.



# HMCTS reform programme

- HMCTS' reform programme, with the adoption of new online case management systems, has faced challenges;
- NAO assessment in Feb 2023:

“...HMCTS's priority has been on delivering its reforms at pace rather than embedding sustainable change. Some services it has delivered are not working as efficiently as expected at this point and while it has improved its plans to evaluate the impact of reforms on users, its understanding in this area remains limited.”



# Residential L&T cases in the county court

- Long term, landlord possession actions in the county courts have been on a downward trend

YEAR	NUMBER OF POSSESSIONS CLAIMS	NUMBER OF POSSESSION ORDERS	NUMBER OF REPOSSESSIONS BY CC BAILFFS
2011	142,083	104,487	31,716
2015	153,691	118,461	42,729
2020	39,681	22,115	7,451
2021	38,011	23,321	9,471
2022	78,688	58,770	19,651
2023	94,211	69,654	25,282
2024	98,766	74,216	28,035
2025	91,093	71,312	29,046



# Court performance: recent data

- System is perhaps showing signs of strain;
- Q4 2025 data shows, compared against Q4 2024 data:
  - A decrease in landlord possession claims (down from 24,004 to 21,458 (11% decrease));
  - However, there has been an increase in the median time from claim to repossession, from 25.0 weeks to 27.0 weeks;
  - An increase in repossessions by county court bailiffs from 967 to 1,138 (18% increase).



# RRA 2025 – likely impacts on courts

- An end to s21 cases;
- Often quickly dealt with via the accelerated procedure without a hearing, or with a single short hearing;
- In 2025, accelerated possession claims made up c.31% of total landlord possession claims (28,598 of 91,093 claims);
- What % of those possession claims will disappear, what % will be brought via another route?



# Court impacts: government view

- The Government's view is there will be a reduction in County Court L&T work:

## **“How will the new system affect the county court?”**

As now, landlords will only need to go through the courts in a small minority of cases where a tenant doesn't leave at the end of a notice period. Ultimately, we expect our rental reforms to reduce demand on the courts because only cases where there is a clear, well-evidenced ground for possession will be able to proceed.”

(Guide to the Renters' Right Act, 6 Nov 2025)



# RRA 2025 – Sources of demand on courts

- Mandatory ground 8, rent arrears:
  - Likely to continue as before – frequently met by a disrepair claim requiring a trial;
- Mandatory ground 1, LL “requires the dwelling-house as the only or principal home” of themselves / a family member;
  - Likely to rise issues of intention requiring a trial;
  - What amounts to ‘requiring’? Relevance of alternatives?
- Mandatory ground 1A, LL “intends to sell”
  - Question of the legitimacy of the intention will require a trial?;
  - Is a conditional intention sufficient? *S Franes Ltd v Cavendish Hotel* [2018] UKSC 62.
- Will s16E 12 month reletting ban prevent misuse?



# RRA 2025 – Sources of demand on courts

- Several of the main discretionary grounds will require a contested trial, e.g.:
  - Ground 12- breach of the tenancy;
  - Ground 14- anti-social behaviour (falling short of ground 7A);
  - Grounds 13 and 15 – deterioration of the property/furniture.



# RRA 2025 – New sources of demand

- New work streams:
  - Cases re the new s16A duty not to unreasonably withhold consent to requests to keep a pet;
  - Civil penalties imposed by local authorities under the Act may be enforced through the County Court.



# Tribunal capacity - Where are we now?

- Less data specific to the Residential Property Chamber;
- Across the entire First Tier Tribunal – 264 permanent judges and 924 fee paid (vast majority sit in employment or immigration chambers);
- Residential Property Chamber deals with approximately 10,000 cases per year;
- Has recently experienced significant increases in its workload – including from Building Safety Act 2022 applications;
- From July – September 2025 experienced a 32% increase in receipts.



# Tribunal capacity - Recruitment

- The Residential Property Chamber's recent recruitment efforts have had mixed results;
- MoJ evidence to the SSRB: "Salaried recruitment to tribunal offices in salary group 7, which includes ... First tier Tribunal (FtT) judges, continues to result in shortfalls"
- Records that "An exercise for salaried FtT Property Chamber judges was launched in May 2024. However, only 8 judges were appointed against a total vacancy request of 14."
- Further exercises to recruit (a) 45 fee-paid judges and (b) 10 permanent judges are in progress.



# Tribunal capacity – Anticipated increases in demand

- MoJ SSRB evidence acknowledges that “housing reforms are still expected to impact ...the FtT Property Chamber’s capacity.”
- In June 2025, in support of the exercise to recruit fee paid judges, the President stated:

“We are pleased to be working with the JAC to recruit additional fee-paid judges for the First-tier Tribunal (Property Chamber)... we are likely to see an increase in the number of applications and appeals that we receive from the significant legislative changes that may be introduced under the Leasehold and Freehold and Reform Act 2024 and the Renters Rights Bill that is currently making its way through Parliament.”



# RRA 2025 – Likely impacts on tribunals

- Substantial new sources of work for the Residential Property Chamber;
- An increase in the number of appeals to the Tribunal against financial penalties imposed by local authorities, including:
  - Penalties imposed under s40 for breaching the s33/34 prohibitions on discriminating against those on benefits or with children in the lettings process;
  - Penalties for breaching s56(2) and (3) (failure to specify proposed rent within a written advertisement or offer / accepting any offer of rent greater than the advertised rate);



# RRA 2025 – Likely impacts on tribunals

- And appeals against penalties imposed for breaching new HA1988:
  - Section 16E(1)(a) (attempting to let the property for a fixed term);
  - Section 16E(1)(b) (attempting to end the tenancy by service of a notice to quit);
  - Section 16E(1)(c) (attempting to end the tenancy orally);
  - Section 16E(1)(d) (serving a possession notice that attempts to end the tenancy outside of the prescribed section 8 process);
  - Section 16E(1)(e) (relying on a ground where the person does not reasonably believe that the landlord is/will be able to obtain possession);
  - Section 16E(1)(f) (failing to provide a tenant with prior notice that a ground which requires it may be used);
  - Section 16D (failing to issue a written statement of terms within 28 days of an assured tenancy coming into existence).



# RRA 2025 – likely impacts on tribunals

- Greater role for rent repayment orders;
- Amount of rent that the Tribunal can order to be repaid doubled from 12 months to 24 months;
- Time period to apply for a rent repayment order doubled from 12 months to 24 months.



# RRA 2025 – Appeals as to ‘market rent’

- Overwhelmingly, the biggest potential source of new work for the Tribunal is appeals under s14(A1) to determine a new market rent;
- By s14ZB(3) and (5), the new rent payable:
  - Will only take effect from the date of determination, or up to 2 months later in cases of undue hardship. It is not backdated;
  - The new rent will be no higher than the landlord’s proposed rent, even if that figure is lower than the true market rent;
- = a highly valuable right in a no cost jurisdiction;
- Why wouldn’t every tenant challenge every increase?



# Potential demand for appeals to determine the 'market rent'

- 11 million people privately rent in England (c.4.7 million households);
- Would only take a small percentage to appeal each year to overwhelm the Tribunal;
- This concern was raised during the passage of the Act;
- Responded to by Baroness Taylor of Stevenage (Parliamentary Under-Secretary, Housing, Communities and Local Government).



# Government response

**“Having listened carefully to the concerns expressed by a number of your Lordships, the Government have decided to put in place a proportionate safeguard for use in circumstances where it has become clear that the tribunal system is on course to be overwhelmed. This safeguard involves the creation of a new power that would enable the Secretary of State to make regulations to change the date from which tenants are required to pay a new rent in instances where the First-tier Tribunal has set one following a challenge to a proposed rent increase; in other words, it would enable the backdating of rent increases following determinations by the tribunal in respect of new rent amounts.”**

- Reflected in s14ZB(6).



# Closing remarks



Justin Bates KC

