

Landlords face tough new regime for tenant protection

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Landlords could face high fines if they are not up to date with the latest legislation designed to protect tenants.

The new rules include revised criteria for mandatory licensing of houses in multiple occupation, known as HMOs, which will see 160,000 more properties having to be licensed. There is also a [change to Section 21 eviction requirements](#) for tenants who occupy properties under a lease created prior to October 2015, and a rogue landlord database has gone live. The changes follow hard on the heels of the energy performance requirements introduced in April.

An HMO must satisfy special requirements regarding fire and general safety, utility supplies and management of communal areas. Under the [extended regulations for mandatory licensing](#), buildings of less than three storeys may now be classified as an HMO, if they house five people or more in two or more separate households with shared kitchen, bathroom or toilet facilities.

There are also strict new requirements on bedroom sizes in HMOs, related to the age and number of people using the room.

- One child under 10 years must have a minimum of 4.64m²
- Anyone over 10 years must have a minimum of 6.51m²
- Two people over 10 years sharing a room must have a minimum of 10.22m²

Additionally, any room that is smaller than 4.64m² must be reported to the local housing authority, irrespective of its purpose.

Property litigation lawyer [Laura St-Galley](#) explains:

“This is a move designed to protect vulnerable tenants who are most likely to be drawn into HMO accommodation, as they are typically cheaper than other private rental options. While the focus is on rogue landlords operating in this sector, it will affect anyone letting a property that falls within the new rules, even if they’re doing the best they can for their tenants. A lot of properties, such as small student lets, are now caught in the HMO category, and if landlords didn’t take steps to register before 1st October they are likely to be renting the property out illegally which could draw an unlimited fine. They also need to take the necessary steps towards compliance within the property.”

Another step towards controlling rogue landlords is a database that sets out any who have been guilty of offences such as letting overcrowded properties, unlawful eviction and breaching gas safety rules. The Government will share the database with local authorities but will not publish the information. This has led some in the sector to criticise the decision, arguing that unless landlords and agents are named and shamed, they are likely to continue operating in the same way.

Other new requirements from October 2018 include changes to Section 21 eviction notices for tenancies that were created before October 2015, to bring them in line with rules introduced under the [Deregulation Act 2015](#). These require landlords issuing Section 21 eviction notices to give at least two months’ notice to any tenant on an assured shorthold tenancy or periodic tenancy; also, a Section 21 notice cannot be issued during the first four months of an assured shorthold tenancy and the notice is only valid for six months from the date it is given, after which a new notice must be issued.

Laura added:

“While it’s clear that pre-October 2015 tenancies are to be brought in line, there are some grey areas around other aspects of compliance for these older tenancies. For example, newer tenancies must have been provided with a How to Rent guide and an up to date Energy Performance Certificate and Gas Safety certificate, but it isn’t clear exactly how, or if, all of these will apply to older tenancies, so it’s worth getting some advice before serving eviction notices until the Government has clarified these details.”

Changes to energy efficiency measures requiring Energy Performance Certificates were introduced earlier this year. The rules mean that properties provided under new tenancies and renewals need to be rated E or above on their Energy Performance Certificates, or landlords could face fines of up to £5,000. The requirement will be extended to existing lets from 1st April 2020.

“This change seems quite straightforward, but there is some confusion over properties listed for historic purposes,” said Name. “They are generally thought to be exempt but it’s not clear from the EU Regulations and the Government’s guidance. These say that energy performance compliance may not be required if the necessary works would unacceptably alter the character or appearance of a building. Owners may be well advised to get an EPC and then seek advice from their local planning authority’s conservation officer to be sure where they stand.”

For further information on landlord’s obligations, read Laura’s [October article](#) on rent deposits, or call [Laura](#) today!

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Note: This is not legal advice; it is intended to provide information of general interest about current legal issues.

