





Renters (Reform) Bill History & overview

Liz Davies KC, Garden Court Chambers

18 July 2023



GARDEN COURT CHAMBERS



TOP TIER SET
2023



@gardencourtlaw

Renters Reform Bill 2023: Overview

Materials:

- Bill at [Renters \(Reform\) Bill - Parliamentary Bills - UK Parliament](#);
- Explanatory Notes at [220308en.pdf \(parliament.uk\)](#);
- Impact Assessment at [Renters \(Reform\) Bill publications - Parliamentary Bills - UK Parliament](#)
- DLUHC: [Guide to the Renters \(Reform\) Bill - GOV.UK \(www.gov.uk\)](#);
- Shelter: [Briefing: The Renters \(Reform\) Bill - Shelter England](#).



Renters Reform Bill 2023: Overview

England only, see in comparison:

- Renting Homes (Wales) Act 2016:
 - In force 1 December 2022;
 - No fault evictions retained (s.173);
 - 6-month notice & prohibition on serving in first six months of tenancy so security for first 12 months;
- Scotland: Private Housing (Tenancies) (Scotland) Act 2016:
 - No fault eviction abolished;
 - Since 2022, all grounds for possession discretionary (Sched 3 “may” inserted by Coronavirus (Recovery & Reform) (Scotland) Act 2022);
 - Rent increases capped (s.21A inserted by Cost of Living (Tenant Protection) (Scotland) Act 2022):
 - At 0% between 6 October 2022 – 31 March 2023;
 - At 3% from 1 April 2023 to 31 March 2024.



Renters Reform Bill 2023: Overview

Parliamentary timetable:

- Currently at Commons Second Reading (not to be completed until autumn);
- Will be followed by Commons Committee stage, Report stage, & Third Reading;
- Then by Lords First and Second Readings, Committee stage, Report stage & Third Reading;
- Then Commons consideration of Lords amendments;
- Royal Assent.



Renters Reform Bill 2023: History

- July 2018 MHCLG consultation on *Overcoming the Barriers to Longer Tenancies in the Private Rented Sector*;
- Prime Minister & MHCLG announcement 15 April 2019: *Government announces end of unfair evictions: Biggest change to the private rental sector for a generation*;
- July 2019 MHCLG consultation Green Paper: *A new deal for renting: resetting the balance of rights & responsibilities between landlord and tenant*;
- December 2019 Conservative manifesto for general election “*a better deal for renters*” including abolition of s.21.



Renters Reform Bill 2023: History

- Queen’s Speech December 2019: *“New measures will be brought forward to protect tenants”*, specifically a Renters Reform Bill;
- 26 March 2020 lockdown & moratorium on evictions. Labour, Shelter & others pressing for abolition of s.21. Minister Christopher Pincher MP said in September 2020: *“We will do that at the appropriate time when there is a sensible and stable economic and social terrain on which to do it”*.
- Queen’s Speech May 2021: government response to consultation would be published autumn 2021.



Renters Reform Bill 2023: History

- February 2022 DLUHC publishes *Levelling Up White Paper* :
“we will publish a landmark *White Paper* in the spring to consult on introducing a legally binding *Decent Homes Standard* in the *Private Rented Sector* for the first time ever, explore a *National Landlord Register* and bring forward other measures to reset the relationship between landlords and tenants, including through ending section 21 “no fault evictions”;
- 16 June 2022 DLUHC publishes:
 - *White Paper A Fairer Private Rented Sector*;
 - *A New Deal for renting: government response*: Annex A contains proposed new grounds for possession; and
 - *Government response to consultation on new housing court*.



Renters Reform Bill 2023: History

White Paper *A Fairer Private Rented Sector* 12 point plan of action:

- Halve number of non-decent homes by 2030 & require privately rented homes to meet Decent Homes Standard;
- Accelerate quality improvements in areas that need it most;
- Abolish s.21 no fault evictions & deliver simpler, more secure tenancy structure;
- Reform grounds for possession so landlords have effective means to gain possession of properties when necessary (anti-social behaviour, persistent arrears & sale of property);
- Only allow rent increases once per year, end rent review clauses & improve ability to challenge excessive rent increases through FTT;
- New single Ombudsman that all private landlords must join;
- Target unacceptable delays in court proceedings, strengthen mediation & ADR;
- Property Portal to make sure tenants, landlords & council have information they need;
- Strengthen council's enforcement powers;
- Make it illegal to have blanket bans on renting to families with children or no DSS;
- Right to request a pet, which cannot be unreasonably refused;
- Explore innovative solutions to passport deposits.



Renters Reform Bill 2023: History

- February 2023 House of Commons Levelling Up, Housing & Communities Committee *Reforming the Private Rented Sector* considered the White Paper and broadly welcomed it whilst calling for:
 - Increase from 6 months of 1 year in period of tenancy before landlord can rely on landlord circumstances grounds;
 - Increase from 3 months to 6 months period during which landlord prohibited from re-letting if possession gained under one of those grounds;
 - Specialist housing court & quicker processing of possession claims;
 - Assistance to local housing authorities to enforce decent homes standards;
 - Single Ombudsman for PRS;
 - Delivery of more affordable housing particularly 90,000 social rented homes each year.



Renters Reform Bill 2023: Overview

Six principal areas:

- Abolish s.21 & require all assured tenancies to be periodic: clauses 1 – 2 & Sched 4 amending Housing Act 1988;
- New and amended grounds for possession: clauses 3 – 4, Schedules 1 and 2 amending HA 1988;
- Ombudsman which private landlords must join: clauses 24 – 31;
- New Property Portal containing database of residential landlords & privately rented properties: clauses 32 – 51;
- Mechanism to prevent rent increases more than once a year and appeal to FTT: clauses 5 – 6 amending HA 1988;
- Right to request permission to keep a pet, not to be unreasonably withheld: clauses 7 – 8;
- Consequential amendments to homelessness legislation: clause 18 amending Housing Act 1996.



Renters Reform Bill 2023: Landlord Redress Scheme

Secretary of State power to set up scheme & require residential landlords to join: clause 24:

- Independent investigation & determination of complaints by prospective, current & former tenants of residential landlords or their representatives: clause 24(2);
- Regulations will require residential landlords to be members of scheme from when they market properties: clause 24(4);
- Detail of appointment of individual & complaints process at clause 25, powers will include requiring apologies, explanations, compensation and/or order to cease taking action;

Penalties at clauses 25 - 27:

- Landlords can be expelled for non-compliance: clause 25(2);
- Financial penalty of up to £5,000 imposed by local authority if landlord breached requirement to be a member: clause 26;
- Criminal offence if breach committed subsequent to receiving financial penalty, with further financial penalty in lieu of prosecution of up to £30,000 (clause 27).



Renters Reform Bill 2023: Private Rented Sector Database

Clause 33: Secretary of State can be a database operator or arrange for a database operator;

Clause 32: database must contain entries regarding:

- Existing or prospective residential landlords;
- Dwellings which are or intended to be let under residential tenancy;
- Residential landlords who have received banning order, conviction or financial penalty in relation to relevant banning order offence or as specified in Regulations (to be inserted by local authorities clause 40);

Clause 34: regulations may include 28 day grace period for compliance with requirements;

Clause 35: regulations will require that active entries are kept up to date.



Renters Reform Bill 2023: Private Rented Sector Database

Clause 39:

“A person must not market a dwelling for the purpose of creating a residential tenancy unless— there is an active landlord entry in the database in respect of the person who will be the residential landlord if the tenancy is granted, and there is an active dwelling entry in the database in respect of the dwelling.”

Clause 42: Tenant can report non-registration.

Clause 43:

- Certain information, including banning orders etc, publicly accessible;
- Such information as is *“necessary for tenant or prospective tenant to make informed decision about renting”*;
- Expected to be landlord name, other owners or managers, unspent offences, financial penalty or regulatory notices & details relating to dwelling.



Renters Reform Bill 2023: Private Rented Sector Database

Enforcement clauses 47 – 48:

- Financial penalty imposed by local authority of £5,000 or £30,000 if repeated (clause 47);
- Criminal offence knowingly or recklessly provide false or misleading information (clause 48);
- Criminal offence if breach which led to financial penalty is repeated with five years: penalty of up to £30,000 in lieu of prosecution.



Renters Reform Bill 2023: Residential landlord

- Definition of “*residential landlord*” at clause 23 for the purpose of defining which tenancies fall within scope of Landlord Redress Scheme and PRS database;
- Clause 23(1)
“*residential landlord*” means the landlord under a relevant tenancy of a dwelling in England that is not social housing”;
- Clause 23(2) definitions of “*dwelling*” and “*social housing*”;
- Clause 23(3) definition of “*relevant tenancy*”: assured tenancies under Housing Act 1988 & regulated tenancies under Rent Act 1977;
- Clause 23(4) “*The Secretary of State may by regulations amend this Chapter so as to:*
 - (a) *Change the meaning of “residential landlord” in relation to an assured tenancy that is a sub-tenancy:*
 - (i) *so that in addition to the landlord under the relevant tenancy, it includes any or all superior landlords in relation to that tenancy, or*
 - (ii) *so that it does not include superior landlords added by virtue of this paragraph”.*
- Power to Secretary of State to amend the Rakusen issue: Rakusen v Jepsen [2023] UKSC 9.



Renters Reform Bill 2023: Controlling rent increases

Clause 5 amends s.13 HA 1988 & abolishing rent review clauses:

- Rent can only be increased during a tenancy by service of a s.13 notice;
- Two-month notice period (currently 1 month);
- Landlord and tenant can agree lower amount than amount proposed in notice without service of new notice;
- Notices can only be served at intervals of no less than 52 weeks.

Clause 6 amends s.14 HA 1988:

- Tenant can apply to FTT to challenge rent increase;
- FTT will assess open market rent;
- If that is higher than proposed in notice, landlord & tenant can agree in writing to lower rent.



Renters Reform Bill 2023: pets

Clauses 7 & 8: Right to request permission to keep a pet:

- Amends HA 1988 by adding new sections 16A, 16B and 16C and amends s.1(4) Tenant Fees Act 2019;
- Implied term of every assured tenancy that tenant may keep pet with landlord's consent unless landlord reasonably refuses;
- Does not apply to tenancies of social housing;
- Written request, with description of pet;
- Landlord can refuse if would breach agreement with superior landlord;
- Landlord can require tenant to purchase pet insurance to cover damage (or to pay for landlord to do so);
- Court can order specific performance of obligation not to unreasonably refuse pet.



Renters Reform Bill 2023: pets under current law



Renters Reform Bill 2023: pets when new law in force



Renters Reform Bill 2023: homelessness

Clause 18 & Sched 2 amendments to HA 1996, Part 7:

- Repeal s.175(5): threatened with homelessness upon service of s.21 notice;
- S.193A, 193B and 193C amended so that offer of fixed term tenancies of no less than 6 months for applicants owed prevention or relief duties, or who have deliberately and unreasonably failed to cooperate repealed;
- Effect is that those in priority need can be offered assured tenancies (with no fixed term) in private rented sector (or Part 6 tenancies);
- Re-application duty under s.195A repealed, as no longer needed.



Renters Reform Bill 2023: commentary

Shelter: *“strongly welcomes the introduction of this long-awaited bill & is campaigning to ensure that it is robust enough to provide private renters with genuine security & safety in their homes, as well as proper protection against discrimination”*:

- Close loopholes for unfair evictions by increasing prohibition on re-letting to 12 months, high evidence threshold, punitive fines;
- Strengthen RRB to make private renters maintain right to access homelessness assistance as soon as possession notice served;
- 4-month notice period for landlord circumstance ground & 2 years period before landlord can serve notice;
- Portal to include information on rent levels & whether homes are in good state of repair.
- Adequate funding for local authority enforcement;
- Outlaw blanket bans on renting to families with children & DSS & other barriers.



Renters Reform Bill 2023: commentary

Generation Rent:

- No-let period should be longer than the three months proposed and must apply after the court grants a possession order;
- Compensation or Rent Repayment Orders should be available if tenant evicted unlawfully;
- Extend 2-month notice period to 4 months, 6-month moratorium at beginning of tenancy to 2 years & require landlords to provide financial support to move;
- Concern at ASB clauses & mandatory grounds in order to comply with enforcement;
- Eviction notices, up to date EPCs & gas safety certificates should be on database;
- Rent increases limited to open market rents continue to allow high rents and don't prohibit excessive rents in order to avoid eviction.

See also Renters Reform Coalition: *Safe, Secure & Affordable Homes for All: a renters' blueprint for reform.*

National Residential Landlords Association: *“Whilst headline commitments to strengthening possession grounds, speedier court processes and mediation are helpful, the detail to follow must retain the confidence of responsible landlords, as well as improving tenants' rights.”*



Renters Reform Bill 2023: meanwhile....

Housing costs:

- renting a room in UK risen to more than £700 a month; London £971 pm, average monthly rent more than £1,000 for first time (Guardian 12 July 2023);

Parliamentary delay:

“It was revealed today that a possible new law to end unfair evictions will not be debated by parliament before Autumn. This means that thousands of renters will be packing their bags this summer, not to go on their holidays, but because they are being evicted....Since the government’s 2019 promise to end Section 21 no fault evictions, nearly 61,000 no fault eviction court proceedings have been started by landlords, turfing tens of thousands of families out of their homes with no need to give a reason. On our current estimates, there will be one Section 21 claim made every 15 minutes over the six-week summer holiday, meaning potentially 3,787 unfair evictions before children go back to school and parliament reconvenes.” (Generation Rent 13 July 2023)





Renters (Reform) Bill

Kevin Gannon, Garden Court Chambers

18 July 2023



GARDEN COURT CHAMBERS



Garden Court Chambers



TOP TIER SET
2023



@gardencourtlaw

Introduction

- The abolition of no-fault evictions
- The new grounds for possession
- Other aspects.



Abolition of no-fault evictions

Clause 2 of the Renters (Reform) Bill is headed “Abolition of assured shorthold tenancies” and says:

In the 1988 Act-

- (a) omit section 6A (demotion to assured shorthold tenancy because of anti-social behaviour);
- (b) omit Chapter 2 of Part 1 (assured shorthold tenancies).

Chapter 2 of Part 1 of Housing Act 1988 runs from s19A to s23 inclusive.



Abolition of no-fault evictions

Clause 1 of the Bill inserts a new section 4A into the Housing Act 1988. New subsections 4A(1) and (2) say:

(1) Terms of an assured tenancy are of no effect so far as they provide for the tenancy to be a fixed term tenancy.

(2) Where terms of an assured tenancy are of no effect by virtue of subsection (1), the tenancy has effect as a periodic tenancy under which the periods of the tenancy are the same as those for which rent is payable.



Abolition of no-fault evictions

Demotion: s6A HA88 is to be omitted. That section is not much used in practice. It applies to registered providers of social housing and allows them to apply to the court for a demotion order which, by s20B, in effect creates an assured shorthold tenancy.

No carve-out for AST starter tenancies for registered providers.



Abolition of no-fault evictions

Commencement:

Chapter 1 of Part 1 of the Bill applies in relation to every assured tenancy that is entered into on or after the commencement date, and

on and after the extended application date, in relation to every assured tenancy that—

- (i) was entered into before the commencement date, and
- (ii) continues in effect on the extended application date, (and accordingly, on the extended application date any such tenancy becomes an assured tenancy to which section 4A of the 1988 Act, as inserted by section 1 of this Act, applies).



Abolition of no-fault evictions

- Transitional provisions in Schedule 4 of the Bill. Paragraph 3 provides:
 3. Where, immediately before the extended application date, proceedings for an order for possession under section 21 of the 1988 Act in reliance on a valid notice given under that section of that Act have been commenced in relation to an assured shorthold tenancy and have not been concluded, or have not been commenced but have not become time-barred—
 - (a) the tenancy remains an assured shorthold tenancy, and the notice remains valid, until any time when such proceedings in reliance on the notice become time-barred or are concluded, and
 - (b) until that time the amendments made by Chapter 1 of Part 1 do not apply in relation to the tenancy.

In this paragraph “time-barred” means prohibited by section 21(4D) or (4E) of the 1988 Act.



Grounds for possession

1	Occupation by landlord or family	Amended
1A	Sale of dwelling house by private landlord	New
1B	Sale of dwelling house under rent to buy agreement by PRP of social housing	New
2	Sale by mortgagee	Amended
2ZA	Superior landlords lease ending	New
2ZB	Superior landlord becomes direct landlord	New
3	Holiday accommodation	Repealed
4	Student accommodation	Amended
5	Ministers of religion	Amended
5A	Possession for occupation by agricultural worker	New
5C	Possession for occupation by person who meets employment requirements	New
5D	End of employment requirements	New



Grounds for possession

5E	Possession for occupation as supported accommodation	New
5F	Possession of supported accommodation	New
5G	Possession for tenancy granted under homelessness duty	New
6	Redevelopment	Amended
6A	Possession to allow compliance with enforcement action	New
7	Death of a tenant	Amended
8	Rent arrears	Amended
8A	Repeated rent arrears	New
14	Antisocial behaviour	Amended
18	Unreasonable refusal to cooperate in supported accommodation	New



Ground 8

Both at the date of the service of the notice under section 8 of this Act relating to the proceedings for possession and at the date of the hearing—

(a) if rent is payable weekly or fortnightly, at least eight weeks rent is unpaid;

(b) if rent is payable monthly, at least two months rent is unpaid;

and for the purpose of this ground “rent” means rent lawfully due from the tenant.

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.



New Ground 8A

Within a three-year period ending with the date of service of the notice under section 8—
(a) if rent is payable monthly, at least two months' rent was unpaid for at least a day on at least three separate occasions, or
(b) if rent is payable for a period shorter than a month, at least eight weeks' rent was unpaid for at least a day on at least three separate occasions.

For the purposes of this ground, occasions are “separate” if in between those occasions the amount of the unpaid rent reduced to less than the amount mentioned in sub-paragraph (a) or sub-paragraph (b) (whichever is applicable) for at least one day.

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.



Anti-social behaviour

Ground 14 in its current wording applies to conduct which causes or is “likely to cause” a nuisance or annoyance. The amendment in the Bill substitutes the words “capable of causing” for “likely to cause”.

Explanatory Notes: This is so that a wider range of behaviours can be considered by the court.



Amended Ground 1

The new features of the amended Ground are:

- (a) there is no need for prior notice;
- (b) a notice seeking possession under the Ground can be served after the tenancy has existed for only 6 months;
- (c) the people for whom the premises are required are not just the landlord, his spouse or civil partner, but also the landlord's parent, grandparent, sibling, child or grandchild or the child or grandchild of the spouse or civil partner;
- (d) there is no equivalent to the current provision that allows possession where the landlord has previously occupied.



New Ground 1A

The opening words of new Ground 1A are:

The following conditions are met-

(a) the landlord seeking possession intends to sell the dwelling house;

The other conditions include that the tenancy has existed for at least six months at the date of service of the s8 notice.



Grounds 1 and 1A – misuse provision

Clause 10 inserts a new s16E which provides by subsection (3):

A person who obtains possession of a dwelling-house let on a tenancy to which this section applies as a result of service of a notice under section 8(3) which specifies Ground 1 or 1A in Schedule 2 must not, before the end of the period of three months beginning with the date specified in the notice under section 8(3)(b)—

- (a) let the dwelling-house on a tenancy, or
- (b) market the dwelling-house to let on a tenancy.

Section 16E(4) provides that the landlord must not authorise a letting agent to market the dwelling house to let on a tenancy.



Other Aspects

Notice periods

Ground specified in notice	Period
1, 1A, 1B, 2, 2ZA, 2ZB, 5, 5A, 5B, 5C, 5D, 6, 6A, 7, 9	two months beginning with the date of service of the notice
5E, 5F, 5G, 8, 8A, 10, 11, 18	four weeks beginning with the date of the service of the notice
4, 7B, 12, 13, 14ZA, 14A, 15, 17	two weeks beginning with the date of the service of the notice”;



Other aspects

- Form of notice
- Statement of terms
- Tenancy deposits
- Compliance with other requirements



Thank you

020 7993 7600

info@gclaw.co.uk

@gardencourtlaw



GARDEN COURT CHAMBERS
