

Immigration Act 2016

Factsheet – Residential tenancies (sections 39-42)

What are we going to do?

- Make it more difficult for those with no right to be in the UK to rent private accommodation.
- Crack down on rogue landlords and agents who exploit migrants and abuse the immigration system.

How are we going to do it?

- Make it easier for private landlords to evict illegal migrant tenants.
- Create new criminal offences for rogue landlords and agents who repeatedly fail to carry out right to rent checks or fail to take steps to remove illegal migrants from their property.

Immigration Minister James Brokenshire said:

“We are clear that illegal immigrants should not be able to access or remain in private rented accommodation, preventing lawful residents from finding a home.

“We know the vast majority of landlords are diligent in their responsibilities when it comes to their tenants and we want to help them to be able evict illegal immigrants more easily.

“But unscrupulous landlords and agents who exploit migrants and who repeatedly fail to carry out right to rent checks or fail to take steps to remove illegal immigrants from their property will find they could now face going to jail.”

Background

- The Immigration Act 2014 introduced the Right to Rent scheme, which prohibited illegal migrants from accessing private sector rented housing. Some illegal migrants may be given permission to rent by the Home Office (e.g. asylum seekers) but most will be excluded from the market.
- The Right to Rent scheme was first implemented in part of the West Midlands from 1 October 2014 and then expanded across the rest of England from 1 February 2016. It will be extended to the rest of the UK in due course.
- In the first six months of operation, the Home Office Landlords Checking Service right to rent aid was used over 11,000 times and the helpline took over 800 calls to support landlords, agents and tenants in implementing the scheme.
- Under the scheme, private landlords, letting agents and homeowners who let rooms need to check the right of prospective tenants to be in the country by conducting simple document checks, for example a passport or biometric residence permit. Landlords who fail to make the right checks are liable for a civil penalty of up to £3,000 per illegal migrant tenant.

- Sometimes a landlord may find that an existing tenant is an illegal migrant. This might be a tenancy that started before the Right to Rent scheme was created, or it might be a tenant who had a right to rent but has now overstayed their visa. Immigration status was not a ground for eviction, and landlords had to gain possession for other reasons.
- The Act will enable landlords to evict illegal migrant tenants more easily, and in some circumstances without a court order. Landlords will obtain a notice issued by the Home Office which confirms that the tenant is disqualified from renting in the UK as a result of their immigration status. On receipt of this, the landlord will be expected to take action to ensure that the illegal migrant leaves the property.
- We have also introduced four new criminal offences to target unscrupulous landlords and agents who exploit migrants and who consistently flout the law by failing to carry out right to rent checks or failing to take steps to remove illegal migrants from their property. These landlords or agents may face a fine, up to five years imprisonment, both a fine and imprisonment and further sanctions under the Proceeds of Crime Act. The Act also provides for a defence against the offences for landlords who have taken reasonable steps within a reasonable period in time in seeking to terminate a tenancy agreement involving an illegal migrant.

Key Questions and Answers

- **How will it be easier to evict illegal migrants?**
The Act will create new routes for a landlord who discovers that an occupier of the property has no legal right to live in the country to end the tenancy and obtain possession.
- **Will this mean that illegal migrants are rendered homeless?**
People who are remaining in the UK without leave should have no expectation that they can establish a settled life here. They should leave the UK or regularise their stay. Illegal migrants will be assisted with their departure. It is not fair to the residents of the UK, including lawful migrants, that those with no legal basis to remain here can compete for and take up residence in the UK's finite housing stock.
- **Why are you making renting to an illegal migrant a criminal offence?**
The vast majority of landlords who are found to be renting to illegal migrants and who have not carried out right to rent checks, where the scheme has been implemented in their area, will be dealt with under the civil penalty regime. The new offences will be targeted at the smaller number of rogue landlords who are intent on flouting the law.
- **Won't these measures encourage discrimination against ethnic minorities?**
We have published a detailed evaluation and did not find any hard evidence that the "Right to Rent" scheme has caused increased discrimination in the private rental market. The evaluation was overseen by a consultative panel including representatives of the housing sector, local authorities, the third sector and the Equality and Human Rights Commission. Alongside Home Office analysts, two external contractors brought additional independent expertise to the evaluation. Preventing discrimination is a primary concern which is why the scheme is built on a statutory anti-discrimination code of

practice for landlords and their agents. We have worked with the Equality and Human Rights Commission throughout and will continue to monitor the impacts of the scheme.

Home Office

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