

IMMIGRATION ACT

The Immigration Bill received Royal Assent on 14 May. In doing so it became the Immigration Act 2014.

Factsheet: Tackling illegal immigration in privately rented accommodation (clauses 22-28)

Key facts

- The Government is making it harder for illegal immigrants to rent accommodation. The Immigration Act 2014 introduced a requirement for landlords of private rental accommodation to conduct checks to establish that new tenants have the right to rent in the UK. Landlords who rent to illegal migrants without conducting these checks will be liable for a civil penalty.
- On 29 July, the Prime Minister announced that these requirements will come into force in one part of the UK in late autumn of this year. The Government will announce the location of this first phase in the autumn. The requirements may apply more widely from 2015.

The right to rent checks will only apply to new tenancy agreements. Existing tenancy agreements are unaffected and landlords will not be required to carry out retrospective checks. The requirements apply to all adults (aged 18 and over) living at the property.

- Failure to comply could result in a civil penalty up to a maximum £3000.

Timescales

[The timescales outlined in this factsheet are correct at the time of publishing but subject to change.]

- The checks may become mandatory for all UK landlords next year (2015).
- But initially they will apply in a single UK location (to be announced in the autumn).
- At that point we will publish draft Codes of Practice, guidance and online resources, including an aid to help landlords and tenants identify whether they are affected and, if so, how to conduct a check.
- The checks will be very simple, and in most cases landlords will be able to conduct them without contacting the Home Office.
- The Government will provide a comprehensive set of services to help landlords conduct checks, including online guidance and a telephone helpline

(local rate) providing general information, and a case-checking service for more complex cases.

- In the meantime, landlords and tenants can have a look at the right to work check (www.gov.uk/legal-right-to-work-in-the-uk), which is similar to resource that we will be introducing for landlords.

Background

Data from the ONS Labour Force Survey and Annual Population Survey indicates that use of the private rented sector is particularly high among recently arriving migrants, with 85% of migrants who have been in the UK for less than a year using this type of housing.

The government wants to ensure tenants in private rented housing are not living in the UK illegally and is already working with councils to tackle rogue landlords who exploit migrant by housing them in “beds in sheds” and illegally overcrowded accommodation. Under the new measures, the Home Office will be equipped for the first time with powers to deal with landlords who rent homes to illegal migrants.

Many private landlords already make checks on tenants’ identify and credit status, making it difficult for illegal migrants to rent properties from them. But not all landlords do that. The new measures in the Act mirror the existing and long-standing requirements on employers to ensure that an employee has a right to work here; they will make it harder for illegal migrants to establish a settled life in the UK.

This is no more that we ask employers to do – we’re not asking landlords to become immigration experts. Those that undertake simple steps will have nothing to fear, and there will not be a criminal penalty.

What we are going to do:

- Ensure that new tenants in private rented housing are not living in the UK illegally.
- This will complement the government’s work in tackling rogue landlords who provide substandard or illegal accommodation.
- Ensure that landlords in the private rented sector take steps to check the status of individuals before allowing them to rent or occupy property.
- Introduce financial penalties for landlords who rent to illegal immigrants having failed to comply with the checking requirement.

How we are going to do it:

- Private landlords will be required to make simple checks on new tenants to ensure that they are entitled to be in this country. The checks will be

straightforward and quick for law-abiding landlords and tenants to comply with.

- Landlords or agents who are responsible for undertaking checks and fail to do so, or knowingly allow illegal immigrants to rent their properties will be given a civil penalty.
- An on-line right to work checking aid (www.gov.uk/legal-right-to-work-in-the-uk) has attracted praise as being user friendly, quick and easy to use. The Home Office is creating a similar tool for landlords.
- Checks will be simple and straightforward for landlords to complete. Landlords will need to obtain and copy documents demonstrating an individual's right to rent in the UK, such as a passport or biometric residence permit. In most cases there will be no need for landlords to contact the Home Office.
- We will provide a comprehensive set of services to assist landlords conduct checks, including;
 - guidance and on-line resources, supported by a telephone helpline (local rate) providing general information
 - a case-checking service for status verification where the prospective tenant has an outstanding immigration application with the Home Office or the Home Office has their documents. This service will provide a clear yes/no response within two working days.
- Our focus is on making this work for the housing market and minimising regulation. If a landlord has not had an answer from the Home Office within two working days, they can go ahead and rent without risk of incurring a penalty.
- We are focussed on caring for the vulnerable. We have listened to housing and homelessness stakeholders' concerns, and as a result we are:
 - Making it easy for homeless and vulnerable people to prove their entitlement through simple documentary requirements for the right to rent check;
 - Exempting those parts of the housing market where further regulation is least appropriate from this obligation, including homelessness hostels, refuges and student accommodation including all halls of residence, any accommodation provided for students directly by a higher educational institution (HEI), and residency agreements in private residential properties where the student has been nominated to occupy the property by a HEI; and

- Excluding all tenants housed by local authorities under a statutory duty from the scheme.

The Act will benefit

- Landlords and agents providing a legitimate service to tenants.
- Those communities blighted by illegal structures and overcrowded houses.
- Lawful residents who face competition from illegal migrants in the housing market.

Next steps

- The government will publish a draft code of practice for the operation of the civil penalty regime, which includes guidance for landlords, and draft regulations setting out the status documents that landlords will be required to check.
- Subject to Parliamentary approval, the intention is to implement the scheme in late autumn 2014. It will not apply to pre-existing tenancies. Landlords will only have to conduct checks on new tenants from the implementation date.
- The government will continue to communicate with industry groups and ensure that general publicity helps landlords to understand their duties.

Q&A

No changes

Further reading

No changes

Home Office

August 2014 – All information in this factsheet was correct at the time of publishing but is subject to change.

