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## Regulatory Powers on the Issuing of Eviction (Section 21) Notices

### Department for Communities and Local Government

#### RPC rating: **fit for purpose**

The IA is now fit for purpose as a result of the Department's response to the RPC's initial review. As first submitted, the IA was not fit for purpose.

#### Description of proposal

At present, some landlords do not include the information that is required under the Housing Act 1988 when issuing a Section 21 Eviction Notice. Additionally, some landlords do not comply with existing legislative requirements to supply tenants with an annual gas safety certificate and an energy performance certificate at the start of the tenancy.

The Deregulation Act 2015 contains powers allowing the Secretary of State to:

- a) prescribe the form and content of a Section 21 notice, with a detailed pro-forma for landlords to use; and
- b) prevent a Section 21 notice being served where a landlord has failed to make available an annual gas safety certificate and energy performance certificate, and introduce a duty on landlords to make available information about a tenant's rights and responsibilities; the restriction on serving this notice would be lifted as soon as these documents are provided.

#### Impacts of proposal

Following advice from the RPC, the Department have provided a separate IA on the proposals relating to retaliatory eviction and the issuing of Section 21 notices.

#### Costs

The Department estimates that it will take a total of 15 minutes for England's 1.4 million landlords (Private Landlords Survey, DCLG 2010) to familiarise themselves with these proposals and those contained in the IA in relation to retaliatory evictions and the issuing of Section 21 notices. The Department assumes an hourly cost of a landlord's time is £13.29. The Department, therefore, estimates a one-off familiarisation cost of £4.7 million. To avoid double counting this has been scored in the retaliatory eviction IA.

The Department estimates that it will take landlords 10 minutes to provide the required information at the start of a tenancy. The Department estimates that 1.09 million households in the private rented sector move home each year. Additionally, the Department estimates a cost of £29,000 of providing hard copies of the rights and responsibilities to 140,000 tenants who do not have internet access. Assuming a 5% annual growth rate in the number of private rented sector properties, the Department estimates the annual cost to be £2.36 million in the first year, gradually increasing to £3.51 million in the last year of the ten-year appraisal period.

### Benefits

Amendment a) will benefit landlords by making Section 21 notices more effective generally. Amendment b) will benefit tenants by ensuring they are informed about the safety of their property, reassuring them that gas appliances have been checked and are safe, and their overall rights and responsibilities. These benefits have not been quantified.

A standardised pro-forma will also reduce the frequency with which defective notices are served to tenants, saving landlords both time and legal fees. The Department estimates that 10,096 defective notices are issued each year, and that 63% of landlords would seek the use of legal services in order to correct the mistakes. The Department assumes this will require 1-2 hours of a landlord's time to instruct a solicitor, at £13.29 per hour, and a fee of £60 to £99 in legal fees. The IA states that "*this figure is based on a web search of average fees charged by a range of legal firms for this type of work. It is supported by research carried out by the Legal Services Board which found that legal charges for housing cases ranged between £20 – 200 per hour with an average hourly rate of £85*" (page 8). The Department, therefore, estimates savings to landlords of £0.63 million in the first year following implementation. Assuming a 5% annual growth rate in the number of private rented sector properties and defective Section 21 notices issued, the Department estimates a present value benefit of £6.7 million over the ten-year appraisal period.

The RPC validates the estimated equivalent annual net cost to business (EANCB) of £2.9 million. This is a qualifying regulatory provision that will score under the business impact target.

### **Quality of submission**

As initially submitted, the IA contained a series of insufficiently justified assumptions which meant that the RPC did not consider it fit for purpose. Following the RPC's initial review, the Department submitted a revised IA that provides sufficient justification in relation to these assumptions as follows:

- the assumptions that it will take 1-2 hours of a landlords time to instruct a solicitor (page 9) has been verified as reasonable, by both the National Landlord Association and Residential Landlord Association;
- the assumption that the private rented sector will grow by 5% per annum (page 10) is based on historical data and is likely to be an overestimate;
- the assumption that it will take 15 minutes for landlords to familiarise themselves with this proposal and the proposals in relation to retaliatory evictions and the issuing of section 21 notices (page 11) has been verified as reasonable, by both the National Landlord Association and Residential Landlord Association as reasonable; and
- the assumption that it will take 10 minutes of a landlord's time to provide information about a tenant's rights and responsibilities (page 10) has been verified as reasonable, by both the National Landlord Association and Residential Landlord Association as reasonable.

The small and micro business assessment (SaMBA) explains that 95% of landlords own between one and four properties. While this data does not provide information on the number of employees these landlords have, it is highly likely that they would be considered to be a small and micro business. Therefore, the Department explains that “*if small and micro businesses were exempt, a large proportion of the benefits of the policy would not be achieved*” (page 13). This appears reasonable.

### Departmental assessment

Classification	Qualifying regulatory provision (IN)
Equivalent annual net cost to business (EANCB)	£2.9 million
Business net present value	-£25.5 million
Societal net present value	-£25.5 million

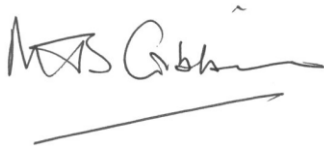
### RPC assessment

Classification	Qualifying regulatory provision (IN)
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Opinion: Final  
Origin: Domestic  
RPC reference number: RPC-CLG-3248(1)  
Date of implementation: not provided

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EANCB – RPC validated <sup>1</sup>	£2.9 million
Small and micro business assessment	Sufficient
RPC rating (of initial submission)	Not fit for purpose



**Michael Gibbons CBE**, Chairman

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<sup>1</sup> For reporting purposes, the RPC validates EANCB figures to the nearest £100,000.