

EMPO Landlords work in partnership with Local Authorities to encourage and promote good property standards and management practices in the private rented sector across the East Midlands.

“Recent Changes to Housing Legislation a quick guide”



**Landlord Law
Changes 2020**

Legislative changes in 2020

Extension of the Homes (Fitness for Human Habitation) Act 2019 IMPORTANT

From March 1, 2020, all tenancies will fall in line with the existing law introduced in March 2019, whereby landlords or agents acting on their behalf can be forced to carry out improvement works to properties or risk being sued

Until that date it applies only to tenants who signed contracts on or after 20 March 2019.

The background

The Landlord & Tenant Act 1985, has been amended so if a landlord rents a property in England with H&S issues and HHSRS hazards then the tenant can seek damages through the court system. **Essentially, this legislation forces landlords to promise their properties are fit for human habitation at the start and during a tenancy.**

If the tenant decides to go to court the landlord will need to ensure they have evidence that the property is being well maintained and there are measures in place to conduct proper risk assessments and timely inspections



Legislative changes in 2020

Extension of the Homes (Fitness for Human Habitation) Act 2019

Things for landlords to bear in mind

- ✓ Forces landlord to conduct proper inventories, inspections and conduct work to rectify hazard in a prompt and efficient manner whilst keeping robust records and evidence of works undertaken
- ✓ Allows tenants to seek compensation by simply completing the N1 court form and submitting evidence of dis-repair
- ✓ Compensation amount up to the court, depends on if the landlord dealt with the hazard in a reasonable time.
- ✓ Landlord only liable from knowledge during tenancy, if the tenant does not make the landlord aware of a recently discovered hazard, the landlord cannot be expected to fix the problem.
- ✓ Includes common areas in HMOs and blocks of flats



Legislative changes in 2020

Extension of the Homes (Fitness for Human Habitation) Act 2019

The courts will decide whether a property is fit for human habitation based on the following factors:

- the building has been neglected and is in a bad condition
- the building is unstable and/or has an unsafe layout
- there's a serious problem with damp
- there's not enough natural light or ventilation
- there is a problem with the supply of hot and cold water
- there are problems with the drainage or the lavatories
- it's difficult to prepare and cook food or wash up
- Hazards under Housing Health and Safety Rating System (HHSRS)

How to Rent Guide" (8 editions)

This version includes references to the fitness for human habitation legislation and the tenant fee ban. The guide explains how rented property must be decent and safe and free from hazards that could cause serious harm. The last official version was published on the 31st May, although two further updates due to minor updates, were published in July & August 2019, these updates retained the 31st May date. it's a little confusing and EMPO would suggest serving all 3 versions if a tenancy commenced, entered periodic or was renewed on or after 31st May.



Legislative changes 2020

From 1st April 2020 no new tenancies can be granted on F or below EPC rated properties.

Even if your tenancy is already underway and you have no plans to renew, after April 2020, you will need to have an EPC rating of E or above or you could face fines.

From April 1, most tenancies will fall in line with the law introduced in April 2018, whereby all existing lets require an EPC rating of E or better. The exemptions include any tenancy starting before the 1st October 2008, (EPC regulations) in these circumstances there is no obligation to have an EPC until the tenant leaves. Likewise if a compliant EPC expires during a current tenancy, there is no obligation to renew the EPC until the current tenant vacates. Exemptions do apply including tenant refusal to have the work done or works devalue the property

LA licensing schemes can overrule some of these exemptions

New rules came in on the 1st April 2019, requiring landlords to pay for energy efficiency upgrades to their properties with a minimum landlord contribution of £3.5K (incl VAT) per property

Not complying with EPC legislation can result in a fine of up to £4K, if the period of non-compliance is over 3 months. I would recommend landlords improve the energy efficiency of their properties ASAP. With climate change at the forefront of mainstream media, it would come as no surprise if government introduced further energy saving measures for the PRS in the not too distant future.



Legislative changes in 2020

Capital Gains Tax changes (CGT)

From April 2020, new CGT rules are set to take effect, and the changes will impact the sale of any property that isn't the owner's principal home; we will also see changes to lettings relief (a tax break) Current CGT rates on property for 2019-20 are 18% for basic rate taxpayers (£12,001-£50,000) and 28% for higher rate taxpayers (£50,001+).

From April the maximum £40K worth of lettings relief is scrapped and landlords can only claim lettings relief if they share the property with their tenant. The full amount of CGT owed on a property sale will also need paying within 30 days

Stamp Duty

There is a possibility that SDLT will be addressed in the next Budget, on the 11 March 2020 after comments made by the PM and Chancellor in the summer. Changes may include raising the minimum threshold from £125,000 to £500,000 and cutting the top SDLT rate from 12% to 7%, or possibly even moving the levy from the buyer to the seller.

Mandatory CMP for agents, from April:

New rules on money laundering have been extended to cover letting agents, With an April 2020 deadline for agents to join an official Client Money Protection scheme





Legislative changes in 2020

Extension of the Tenant Fees Act 2019

From the 1st June 2019 on all new and replacement tenancies, letting fees have been banned. From June this year, 2020, the ban applies to all existing tenancies.

The main feature of the legislation means landlords and their agents can no longer charge fees regarding AST's, tenancies of student accommodation and licences to occupy.

Banned fees include: fees for having a pet, re-letting fees, credit checking, inventories, end of tenancy cleaning, gardening, referencing, Administration and de-fleaing if pets are allowed.

Payments that can be charged include:

- Rent
- Security deposits, capped at 5 weeks rent
- Refundable holding deposits (to reserve a property) to be no more than 1 week's rent.
- Change of tenancy fees to be capped at £50.00 or reasonable cost (variation of tenancy, permitted occupiers, drafting surrender document)
- Fees for default of tenancy to be reasonable (costs for late rent payment, replacement keys, locks) **Keys- True cost only, cannot charge for time taken to have keys cut. Interest on late rent cannot be more than 3% above BOE rate (14 days in arrears)**
- Other permitted payments include, TV licence, Council Tax, Utilities, Communication services

Legislative changes in 2020

Things to consider

- Ensure tenancy agreements reflect changes- no hidden fees
- Fees can still be charged until 31st May 2020 if the agreement commenced or was renewed before the 1st June 2019.
- In respect to any deposit amount over the 5 week rent threshold on a pre 1st June 2019 tenancy, EMPO advises you pay back the difference ASAP and in any event by 31st May 2020.

The legislation requires all agents including online to display information about their fees and membership to redress and client money protection schemes prominently in their office and on their website.

Where fees have been unlawfully charged Landlords will be prevented from recovering their property via Section 21 until the fees have been repaid, unless they can prove their agent is at fault. The Bill creates a financial penalty of £5K for an initial breach of the legislation, rising to £30K if convicted of the same offence within a 5 year period.



Legislative changes in 2020

Five Year Electrical Safety Checks coming in 1st July 2020

All new tenancies starting on or after the 1st July 2020, will require a 5-year Electrical certificate from a registered electrician (it may be required to be less than every 5 years if the certificate states that is required) All new tenancies, will include renewals and tenancies that become statutory periodic.

All existing tenancies from the 1st April 2021

It looks similar to Gas Safety, in that a copy must be given before tenants occupy and within 28 days of any renewal of the certificate. CPN can be issued of up to £30K for not doing this rather than non-compliance triggering a s21 issue, as is the case with not properly issuing the GSC, EPC, HTR

Any remedial works stated by the electrical certificate must be done within 28 days or sooner, and you must get written confirmation that it has been done.



Legislative changes in 2020

S21 under the hammer

No fault eviction under Section 21 is being abolished. We are unsure on the timetable, Progress is likely to take some time if the TFA is an indicator - that was announced in November 2016 but only came into force in June 2019.

The Queen's Speech on 19th December confirms government intention for the full abolition of Section 21, instead proposing a "strengthening of rights" to landlords needing to go to court to gain possession when they have a valid reason to do so.

There is concern, if the final legislation is badly drafted, it is likely to force landlords to be pickier about who they rent to adding to the homelessness problem.

The Renters Reform Bill as government calls it will introduce a package of reforms intended to deliver a "fairer and more effective" rental market.

The key reforms of the Bill are to:

- Remove section 21 and reform the grounds for possession under s8
- Give landlords more rights to gain possession through the courts where there is a legitimate need for them to do so



Legislative changes in 2020

- Introduce an improved court process for landlords
- Introduce a new portable lifetime deposit so tenants don't need to save for a new deposit every time they move house
- Wider access to the rogue landlord and letting agent database
- Introduce minimum qualifications for agents for the benefit of tenants and landlords

In Summary

Landlords need confidence they can swiftly repossess properties for legitimate reasons. Section 21 should not be scrapped unless a new system is in place that provides landlords with exactly the same level of confidence which means clear and comprehensive grounds for possession and a dedicated housing court to ensure easily accessible and swift justice where there are conflicts between landlords and tenants.



Legislative changes in 2020

Selective Licensing review backs creation of national landlord register

A government review published in June 2019 suggests a national landlord register will complement SL schemes and provide an easy tool for councils to access data on who should have a licence.

The review recommended twelve key changes to SL schemes, these include allowing councils to introduce their own conditions linked to their specific scheme & not having to go to consultation to renew schemes.

Sadly, at the time there was no mention in the review on how professional landlords and agents should be treated. This one size fits all approach is not helpful in developing a “working together” relationship with the professional sector.

Recently, government blocked Liverpool in its attempt to renew England’s largest SL scheme (55K properties) due to end on 31st March 2020

The council is appealing the decision



Legislative changes in 2020

The Data protection Fee-does a landlord need to pay?

The Information Commissioner's Office (ICO), has commenced a campaign to remind businesses of their legal responsibility to pay the data protection fee linked to the General Data Protection Regulations (GDPR), 25th May 2018

Most landlords would be considered as running micro organisations where the fee is £40.00 pa. A micro organisation has a maximum turnover of £632,000 pa and employs no more than 10 members of staff. Paying the fee and being listed on the ICO's register shows tenants that you take their data protection obligations seriously.

Non-compliance can result in a fine of up to £4,000.

To recap the legislation is clear, an ICO fee applies when personal information is processed, stored or shared for business purposes on any electronic device, including using CCTV for crime prevention purposes.

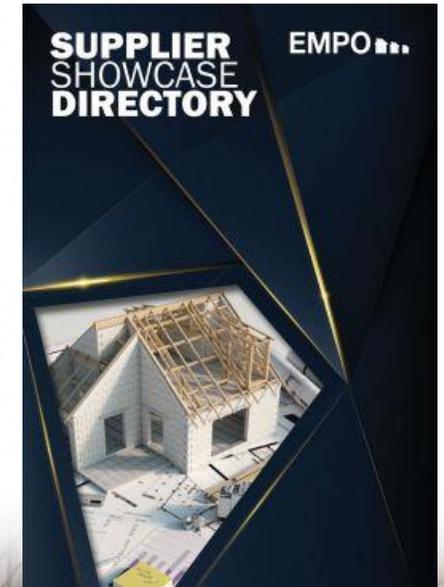
Landlords come under this legislation as they create AST agreements, undertake credit checks, share tenant personal data with contractors and councils and register tenant's details with deposit schemes. Any collection and storage of tenant personal data will trigger the requirement to register with the ICO.



Membership Benefits

- **A highly competitive building** and legal expenses insurance scheme including a discounted re-building cost valuation service
- **FREE** access to our bank of landlord documentation including AST agreements & home safety/risk assessment documents/GDPR privacy notice
- **Professional landlord training courses** at discounted rates for members
- Invitations to property investor networking events
- Advice and assistance completing possession paperwork
- A **FREE** advice helpline provided by hands-on-landlords
- Regular local and national updates on legislation affecting your business
- Membership brings great money saving products and services- (My Deposits, Tenant Referencing, EPC's, Solicitor helpline, Trade Point)

Membership is just **£5.00** per month plus a one-off joining fee of **£20.00**



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