

The Homes (Fitness for Human Habitation) Act 2018

www.towergate.com

Landlords for private and social housing might want to ensure their properties are fit for purpose and in a good state of repair.

The Homes (Fitness for Human Habitation) Act 2018 will give tenants new rights, including the ability to sue landlords who fail to adequately maintain their properties and keep them fit for habitation. It will offer tenants the opportunity to force negligent landlords into carrying out improvement work, or otherwise take them to court for breach of contract, and potentially claim compensation.

Having received Royal Assent on 20 December 2018, the new Act amends relevant sections of the Landlord and Tenant Act 1985, through extending the terms to almost all landlords and modernising the 'fitness for habitation' test:

Does the Act apply to all tenancies?

Private and social tenants in England are covered under the new legislation when they:

- start a new tenancy after 20 March 2019; or
- renew a tenancy after 20 March 2019.

Any tenancy (or renewal) agreements entered into before 20 March will not be covered by the legislation, even if occupation begins after that date.

The Act covers all tenancy contracts that last up to seven years. However, if a contract that lasts more than seven years has a break clause at two years (for instance), it will be treated as a two-year tenancy, unless the break clause applies for the tenant only.

Why is it needed?

There have been long-standing concerns that property standards in the private rented sector are sub-standard. The English Housing Survey 2016/17¹ found that the private rented sector had the highest proportion of homes with at least one indicator of poor housing. The Housing Health and Safety Rating System (HHSRS), a risk assessment tool to assess potential risks to the health and safety of occupants in residential properties in England and Wales, found over 244,000 social dwellings and 794,000 private dwellings to be in a 'category 1' hazard band². Properties with a category 1 hazard under HHSRS are defined as posing "a serious and immediate risk to a person's health".

What makes a home 'unfit for human habitation'?

Amongst those issues which can make a property unfit are:

- problems with damp;
- insufficient water supply;
- poor drainage;
- inadequate ventilation;
- insufficient lighting; and
- unsatisfactory cooking facilities.

Whilst the HHSRS is currently under review by the government, a property's standard of fitness will be assessed by the court using the 29 hazard categories provided by the HHSRS.

The new Act is backed by the Residential Landlords Association and the Minister for Housing, Helen Wheeler who said, "Everyone deserves a safe and decent place to live, regardless of whether you own your home or rent it".

Sources:

Main Source: <https://www.allianzbroker.co.uk/news-and-insight/news/new-rules-for-landlords-homes-fitness-for-human-habitation-act-2018.html>

¹ 'English Housing Survey 2016 to 2017: private rented sector', GOV.UK

² 'Briefing: Fitness for Human Habitation Private Member's Bill' (December 2017), england.shelter.org.uk

For more information or for a full review of your insurance needs, please contact your usual Towergate advisor or email TIB@towergate.co.uk