

AnthonyGold

Housing Update - Issue 5

Welcome to the latest newsletter from the property team at Anthony Gold.

This is a difficult time in so many different ways, and we hope that this newsletter will give you helpful advice on how to cope with housing issues arising out of the COVID-19 crisis.

Part of the Government's response to the pandemic has been a set of emergency measures to protect tenants from eviction. Temporary changes to section 8 notice and section 21 notices were brought into effect by the [Coronavirus Act 2020](#), and the courts have put a [90-day stay](#) on claims for possession.

Meanwhile, the rules on self-isolation and social distancing are making it difficult for landlords to comply with their [repair obligations](#) and other regulatory requirements. Apart from a temporary concession which allows right to rent checks to be carried out remotely, there has been no formal relaxation of landlords' duties. However, [guidance](#) issued by the Government will give some comfort to landlords and agents who find it impossible to carry out the normal safety checks.

Many tenants are looking for [rent reductions](#) or [early surrender](#) of their tenancies in response and landlords and tenants would benefit from having better understanding of their legal rights and obligations.

Away from the immediate crisis, the Government's agenda for reform of the rented sector has continued. March saw the conclusion of the phased introduction of the [Homes Fitness for Human Habitation Act 2018](#) and [new electrical regulations](#) are due to come into force soon.

Almost every business will have suffered disruption. Our employment law specialists can assist with any questions relating to the job retention scheme ("[furloughing](#)"), and we can also advise on any business tenancy issues you encounter.

We have been working hard to ensure the current crisis has a minimal impact on the services we provide to our clients. All of our lawyers, and the vast majority of our support staff are working from home and meetings are being held remotely; via phone, Skype or similar means.

Please do not hesitate to contact us about any new matters where we or another team in the firm could assist you. We would be very happy to assist you.

Robin Stewart
Senior Associate



What does the COVID-19 Act mean for private sector landlords?

In response to the coronavirus outbreak, the Government announced a “radical package of measures to protect renters and landlords affected by coronavirus. As a result, no renter in either social or private accommodation will be forced out of their home during this difficult time.” The Government’s emergency legislation, the Coronavirus Act 2020 (“the Act”), is now in force and makes changes to the procedure for serving notices seeking possession. The Government has also published guidance for landlords, tenants and local authorities explaining their rights and responsibilities during these unprecedented times.

To read more click [here](#).

Courts Stay Possession Claims for 90 Days

On 27 March a new Practice Direction staying possession claims for 90 days during the Coronavirus pandemic came into force. The practice direction follows the emergency provisions relating to residential tenancies contained in the Coronavirus Act 2020 and prevents the making of and enforcement of possession orders for 90 days.

The Practice Direction 51Z (PD) applies to all proceedings brought under CPR 55. This is very broad and applies not only to residential tenants (including common law tenants) but also licensees, former licensees who no longer have a right to occupy and borrowers seeking possession by their mortgage lender. The Practice Direction provides protection to a much wider range of residential occupiers than the Coronavirus Act. It would also apply to proceedings commenced under CPR 55 against commercial tenants. The Practice Direction expressly states that the stay does not apply to claims for injunctive relief.

To read more click [here](#).

Housing Conditions in an Isolated Climate

Most of us are fortunate enough not to have lived through a pandemic like COVID-19 before. We are not used to empty shelves or streets. Nor spending all our time at home. The instruction to stay at home brings into sharp focus those living in social

housing, in homes which are in sub-standard condition, and/or requiring repairs and maintenance which vulnerable households have been waiting, sometimes for years, for their social housing or local authority landlord to provide.

Inevitably, there will be further delay and a slow down as the national effort is diverted to closing or re-directing operational resources. Whilst accepting that sensible procedures must be in place to protect public health and safety, we should continue to think about what can still be done by social housing providers, local authorities or private landlords to address urgent or ongoing disrepair which is blighting a home.

To read more click [here](#).

Government Guidance for Landlords in Conducting Gas and Electrical Safety Checks in Private Residential Properties

Due to the recent COVID-19 outbreak, landlords may face difficulties in complying with their obligations to attend the property to carry out gas and electrical inspections and conduct other repairs in the property. This may be due to the tenant self-isolating in the property or the risk that the virus might be transmitted from person-to-person.

Landlords have a continuing obligation to carry out gas safety and electrical inspections in a property which they let. These obligations are set out in the Gas Safety (Installation and Use) Regulations 1998 and the Electrical Safety Standards in the Private Rented Sector (England) Regulations 2020 which are due to come in force on 1 July 2020.

To read more click [here](#).

COVID-19 Guidance: How to Formalise a Temporary Rent Reduction or Rent Holiday

Many landlords have been asking how to go about formalising an agreement with their tenant to temporarily lower or suspend the rent. Understandably landlords will want to help out their tenants without accidentally breaching the Tenant Fees Act 2019 or permanently reducing the rent. This post gives some simple tips how to help tenants out without falling into any legal traps.

Suspension, Reduction or Time to Pay?

The first step is to make sure that you and your tenant actually agree on what the deal is.

Landlords could suspend the rent entirely for a period of time. You could agree that the rent is suspended until the landlord gives one month's notice that the rent will resume, but it would probably be easier to agree offer a rent free period for a fixed amount of time, and then decide later if a longer rent-free period is appropriate.

To read more click [here](#).

Can tenants terminate their tenancies early due to coronavirus?

Many tenants in the private rented sector, particularly students who have other accommodation outside of term-time, are asking landlords whether they can terminate their tenancies early in response to the coronavirus outbreak. This blog looks at the legal position on terminating tenancies early and what landlords should be considering when dealing with such requests from their tenants.

Force Majeure

Force Majeure is a contractual term mostly found in commercial contracts allowing parties to exit or delay the performance of the contract when a specified event that is beyond the parties control occurs. These events are usually an act of God, natural disasters, fire, flood, war, acts of terrorism etc. Most contracts will specify what the specified event may be allowing the parties to exit/delay performance of the contract. However, in the context of residential tenancies, you are less likely to find a force majeure clause allowing parties to end their tenancy agreement. Therefore, unless your tenancy agreement has a force majeure clause your tenants will not be able to rely on this.

To read more click [here](#).

Fitness for Human Habitation now applies to many more homes

As of today, 20 March 2020, section 9B(4) of Landlord and Tenant Act 1985 means that the section 9A 'fit for human habitation' obligation applies to all periodic and secure tenancies in England that existed on 20 March 2019 and are ongoing.

This means that the provisions introduced by the Homes (Fitness for Human Habitation) Act 2018 now apply to tenancies in England of less than 7 years where:

- a) The tenancy began on or after 20 March 2019 (including 'renewals'), from the date of the tenancy.
- b) The tenancy was for a fixed term that began before 20 March 2019, but became a secure or periodic tenancy on or after 20 March 2019 – the obligation applies from the date the tenancy became secure or periodic.
- c) All periodic and secure tenancies that were already in existence on 20 March 2019, from 20 March 2020.

To read more click [here](#).

Do landlords who already have an EICR need a new report to comply with the new electrical safety regulations?

The Government published the draft Electrical Safety Standards in the Private Rented Sector (England) Regulations 2020 in January which, subject to parliamentary approval, will impose new electrical safety standards across in rented property from July 2020.

The new regulations will be phased in – coming into force on 1 June 2020, starting to apply to ‘new tenancies’ on 1 July 2020 and then subsequently applying to existing tenancies from 1 April 2021. Here ‘new tenancies’ is defined as those granted from the coming into force of the regulations, which is on 1 June 2020 (not 1 July 2020 as you might expect). In practise this is going to mean landlords will need to ensure that they are compliant when granting any new tenancy from 1 June 2020 onwards.

To read more click [here](#).

COVID-19 Job Retention Scheme

Many businesses are facing the real prospect of catastrophe in the face of enforced shut down or a collapse of custom owing to the personal restrictions imposed on us all in order to try to combat the coronavirus COVID-19. The difficulty is in taking steps to prevent insolvency while also being able to service customers again when the restrictions are lifted. The purpose of this article is to consider one of the options available to businesses and what the legal implications may be.

The most obvious route to retaining staff at minimal cost during the crisis is to take advantage of the Coronavirus Job Retention Scheme. Under this scheme, the Government has promised to reimburse more or less immediately 80% of the salaries (up to a maximum of £2,500pcm) of any PAYE staff who are asked not to work. That means those earning up to £37,500 a year will receive a full 80%.

To read more click [here](#).

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