

A photograph of a brick building facade with a white door and a window with blue curtains. A white semi-transparent box is overlaid on the left side of the image, containing the title text.

LANDLORDS... SOME KEY DATES FOR YOUR DIARIES

The last few months has seen the introduction of new legislation which affects all private residential landlords. It is highly important that the implications of these changes are recognised and acted upon by all in the lettings industry.

Failure to do so could result in substantial fixed penalty fines and these are highlighted in red.

The most recent changes in legislation are found in the Deregulation Act 2015 which received Royal Assent on 26th March 2015 but there are others!

Some key dates and matters for consideration are:

- **Legionella control:** since April 2015 it is now mandatory for all landlords to ensure that on an annual basis all water pipework, storage tanks and hot water cylinders are free from risk of Legionella. Simple precautions are available but it should be noted that a Legionella Risk Assessment is required. **Failure to comply could be a criminal offence.**
- **S21 Notices:** from 1st October 2015 significant changes have been introduced regarding the service of s21 Notices (Landlord's possession Notice). In essence, if a landlord requires possession certain ancillary documentation (see below) must be in place otherwise the validity of the S21 Notice can be challenged by the tenant. Also, from 1st October 2015 the type of s21 Notice to be used (at present there are two types) will be reduced to one type (Form 6A) which is in a prescribed format. Finally, it should be noted that now a s21 Notice is effective for 6 months only from date of service. It is not open ended and it is a case of "use it or lose it". **Failure to comply can result in a delay in possession being obtained.**
- **Smoke and Carbon Monoxide detectors:** from 1/10/2015 it is now mandatory for a smoke detector to be present on all floors of a rental property and for a carbon monoxide to be present in premises where oil, gas or solid fuel appliances are present. **Failure to comply could lead to a fixed penalty of £5,000.**
- **Tenancy deposits:** from 23/6/2015 all tenancy deposits must be protected in The Tenancy Deposit Scheme even if the tenancy commenced prior to 6/4/2007. This can be with the Deposit Protection Service, The Disputes Service or MyDeposits. If a deposit is not protected then any s21 Notice served will be invalid. **Failure to comply could result in a fine of 3 times the initial deposit.**

- **Energy Performance Certificates:** since 1/10/2012 it has been mandatory for all rental properties which are marketed to have an EPC. From 1st October 2015, if an EPC is not in place, any s21 Notice served will be invalid. **Failure to comply could result in a delay in obtaining possession.**
- **Gas Safety Certificates:** since 31/10/1998 it has been mandatory for landlords of residential property to carry out an annual check of all gas appliances within rental property and provide a Gas Safety Certificate. This is generally linked in to a service. From 1/10/15 if a valid Certificate is not attached to a s21 (Form 6a) Notice it will invalidate the Notice. **Failure to comply is a criminal offence.**
- **Immigration checks (Right to Rent):** from 1/2/16 it is now mandatory that all landlords/letting agents vetting applicants for rental property have to establish if they have a Right to Rent. **Failure to comply could result in a fixed penalty of £1,000 per person for a first offence and £3,000 per person for a second offence.**
- **Retaliatory evictions:** from 1/10/2015 it will no longer be possible for a landlord to serve a s21 Notice ending a tenancy simply because the tenant's "face doesn't fit" if a Repairs Notice has been served on the landlord/agent in writing. **Failure to follow procedure will result in at least a 6 month moratorium preventing the service of a further s21 Notice and a requirement to comply with the Repairs Notice.**
- **Energy Performance of Buildings:** from 1/10/12 all properties marketed for sale or rental purposes have had to have an EPC. It is now a requirement that by April 2018 all rental properties must have a minimum rating of Band E, by April 2025 Band D and by April 2030 Band C. To encourage this from April 2017 tenants are given the right to request the landlord upgrades substandard properties. **It is not known at this stage what sanctions will be incurred for non-compliance but suffice it to say that there will be some.**
- **Capital Gains Tax:** from 6/4/2015 overseas landlords of residential property will be charged CGT on any increase in value from 6/4/2015 should it be sold or transferred. A valuation at this date is recommended.
- **Stamp Duty Land Tax:** from 1/4/16 there will be a 3% surcharge levied on the stamp duty liability paid on all residential investment purchases.
- **Relief on mortgage interest paid under Buy-To-Let mortgages:** from 1/4/16 investors will be able to only offset mortgage interest paid at the basic (and not the higher) rate of tax.
- **s8 Notices:** from 5/4/16 there is yet another version but now it is in a prescribed form. To be considered for use most likely within a fixed term where the tenant is in breach of contract and either possession is required or the breach is to be remedied. **Unless the correct form is used it is highly doubtful if it will be effective either outside or within a Court hearing. This could delay matters substantially.**
- **Dog chipping:** from 6/4/16, under the Microchipping of Dogs (England) Regulations 2014, it is now mandatory to have all dogs over the age of 8 weeks chipped. **Failure to do so could result in a fine of £500 if a Notice to chip is not complied with within 21 days. Question:** do landlords/agents have to check if dogs are chipped to comply with Right to Rent legislation?!

It is clear from this list of changes that landlords need to be much more aware of the impact of new legislation. This can best be provided by professionally qualified advisors who work in regulated organisations.

For further details on these matters either contact your solicitor or speak with either Jane Sewell or Chris Oakes at Hazells 01284-702626 who would be pleased to provide further guidance.