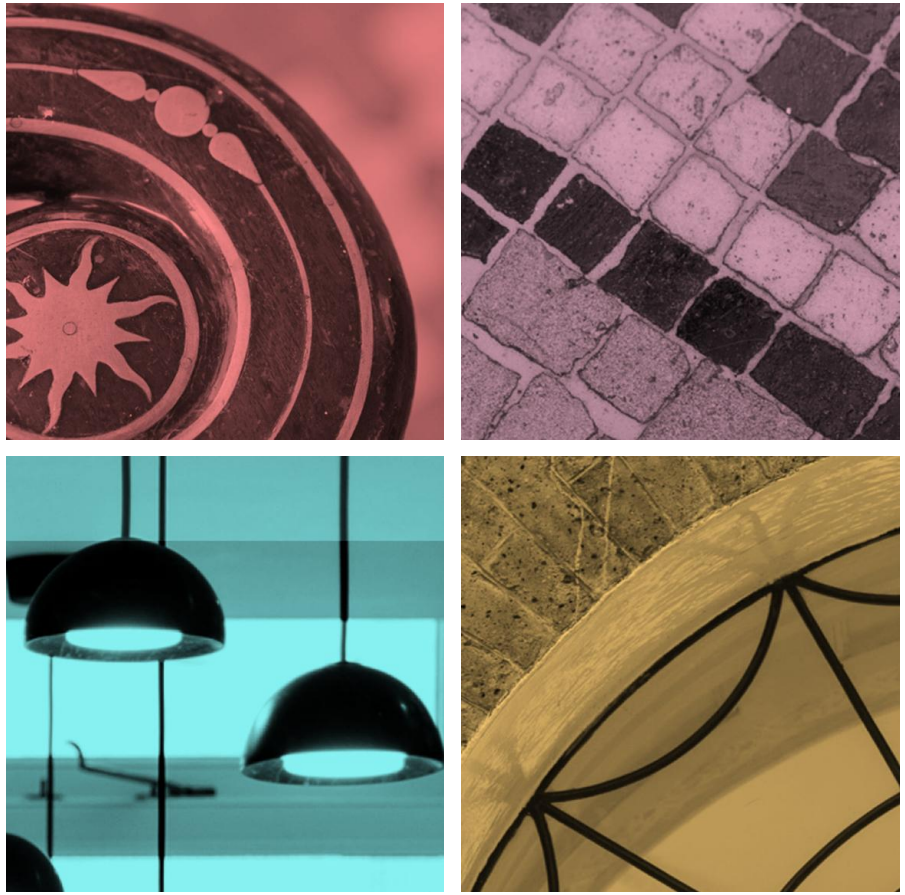

RENTERS RIGHTS BILL SEMINAR – PART 1

- **Chair:** Marie Paris, Barrister at Doughty Street Chambers
- **Before the tenancy:** David Cowan, Associate at Doughty Street Chambers and Journal of Law and Society Professor of Socio-Legal Studies at Cardiff University Law School
- **Grant of tenancies:** Dominic Preston, Barrister at Doughty Street Chambers
- **During the tenancy:** Cara Hall, Barrister at Doughty Street Chambers

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Renters' Rights Bill: Preliminaries and Before the Tenancy

doughty street chambers

David Cowan, *Journal of Law and Society* Professor of Socio-Legal Studies, Cardiff University, and Barrister, Doughty Street Chambers

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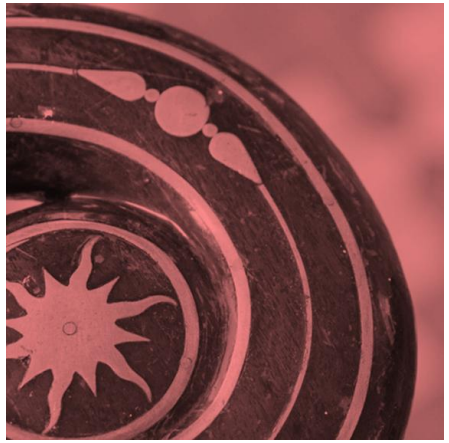
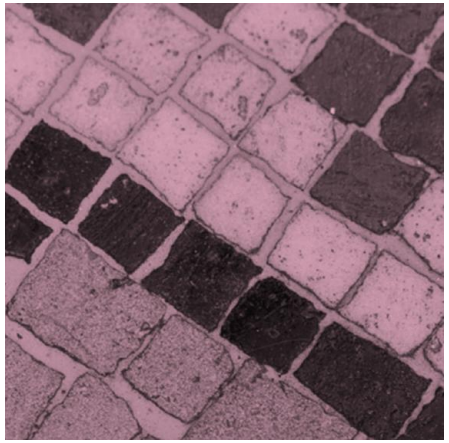
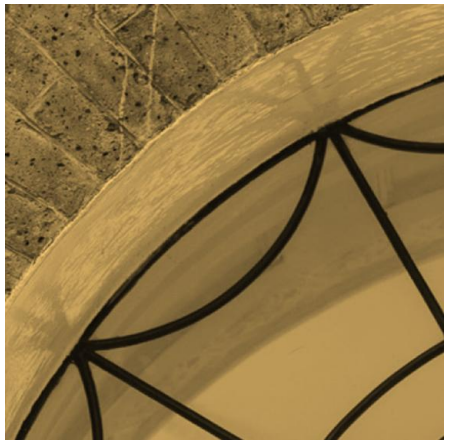
Preliminaries

doughty street chambers



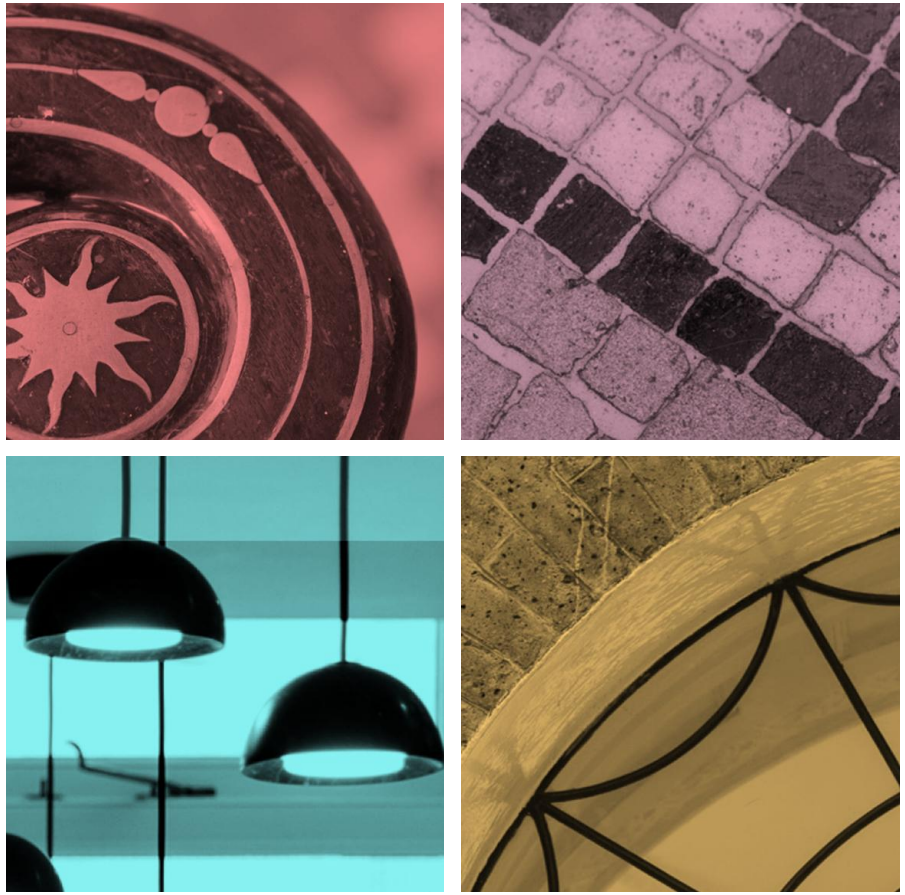




PASSAGE

Cconservative Party Manifesto 2019 –

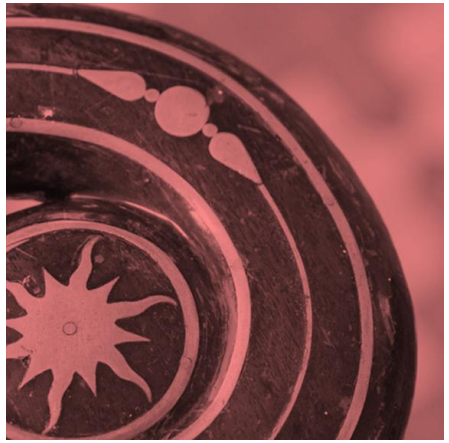
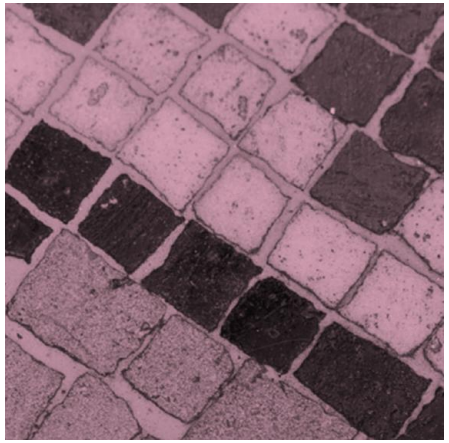
> "We will bring in a Better Deal for Renters, including abolishing 'no fault' evictions and only requiring one 'lifetime' deposit which moves with the tenant. This will create a fairer rental market: if you're a tenant, you will be protected from revenge evictions and rogue landlords, and if you're one of the many good landlords, we will strengthen your rights of possession."

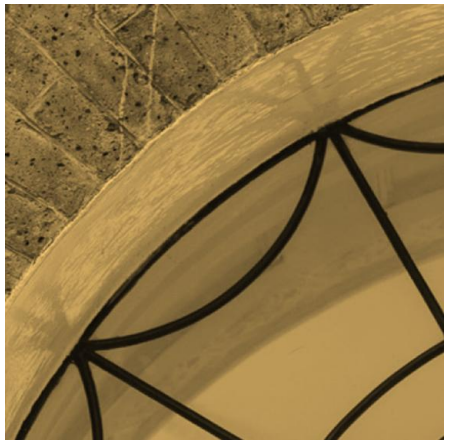


RENTERS REFORM BILL 2024

Through the Commons and 1st Reading in Lords

Political controversy



RENTERS' RIGHTS BILL

Introduced: September 2024

Completed HC: January 2025

Completed HL: July 2025

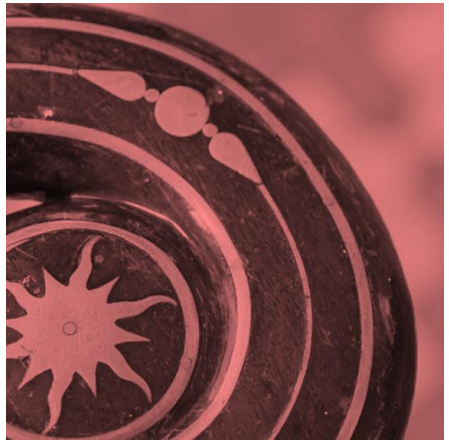
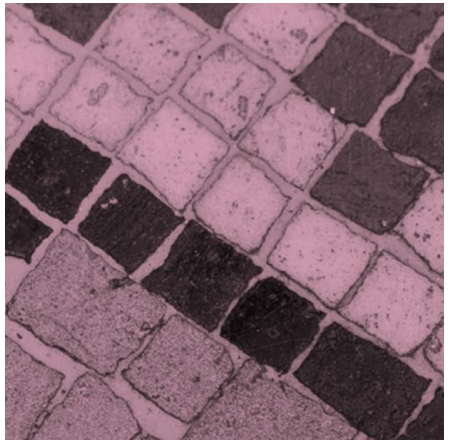
Discussion of Lords amendments: 8th September 2025

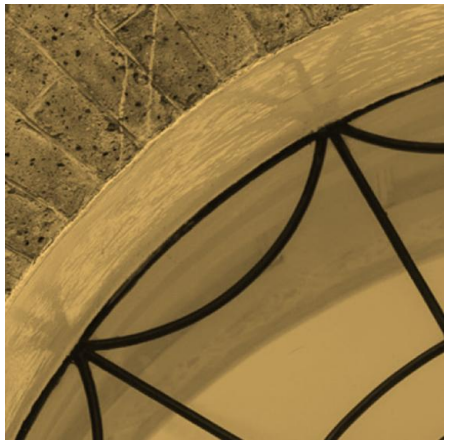
- Parliamentary Ping Pong

Expected date for re-consideration by Lords: 14th October

Royal Assent c November/December 2025

Coming into force? The "Big Bang"



CONTENT

https://bills.parliament.uk/bills/3764

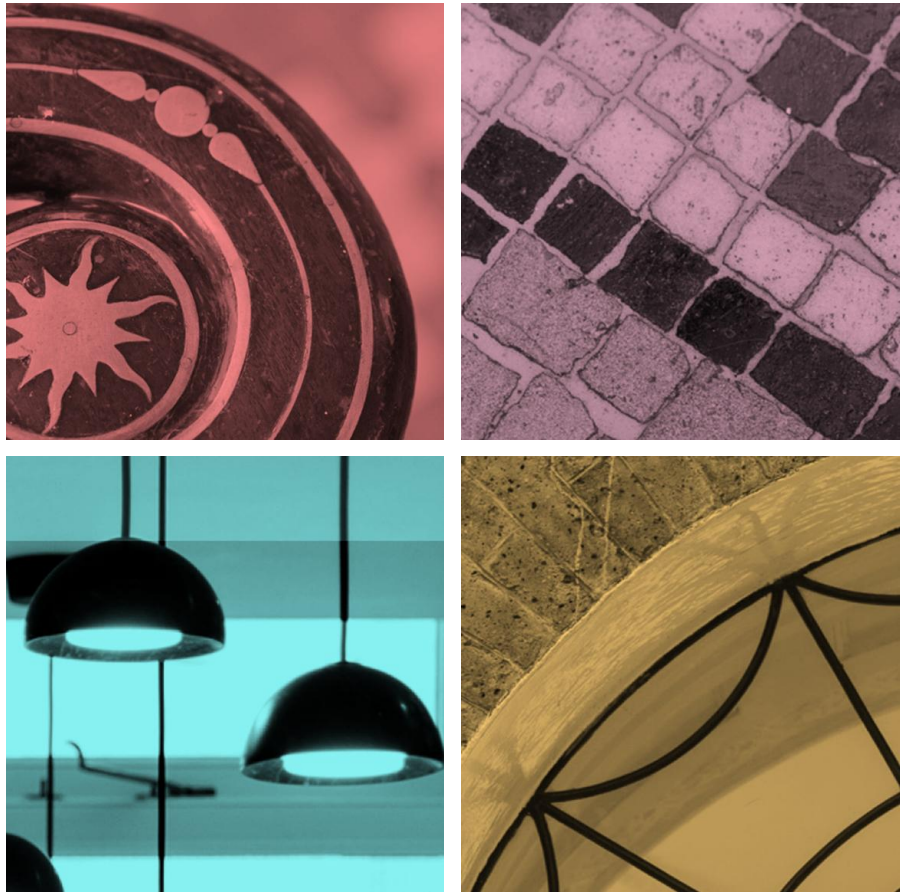
Beyond the headline …

- 146 ss and six Sch
- 230pp

- Massive changes to
  - Housing Act 1988
  - Housing Act 2004

- PRS generally:
  - From amateurism to professionalism?
  - New grounds of possession
  - From compliance to hardline enforcement?
  - RROs, CPNs

- Supported housing
  - New grounds of possession



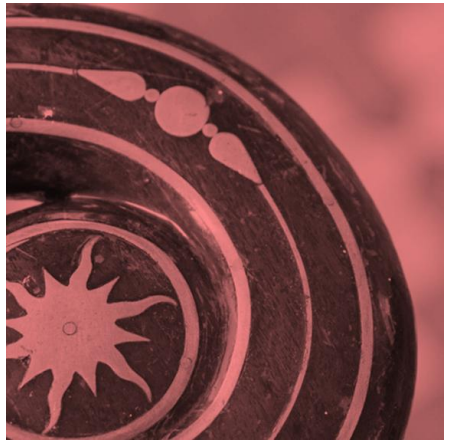
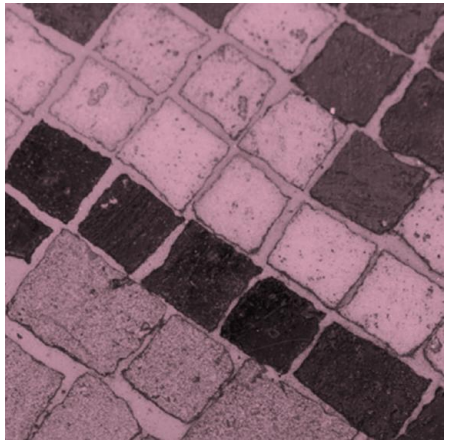
CONSTITUTIONAL QUESTIONS ...

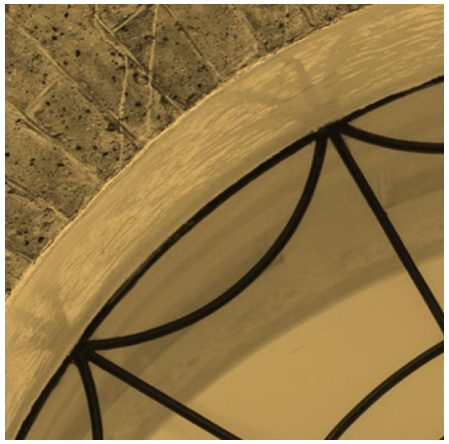
Devolution

Discrimination provisions extend to

- Wales: Part 1, ch 4
- Scotland: Part 1, Ch 5

https://blogs.cardiff.ac.uk/housing-law-wales/renters-rights-or-when-renting-discrimination-becomes-a-constitutional-issue/



OUR (ROUGH) CUT

Today:

- Before and during the tenancy (DC & Cara Hall)
- Grant of Tenancies (Dominic Preston)

Next week:

- Enforcement
- Ending the tenancy
- Tribunal work

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Before the tenancy

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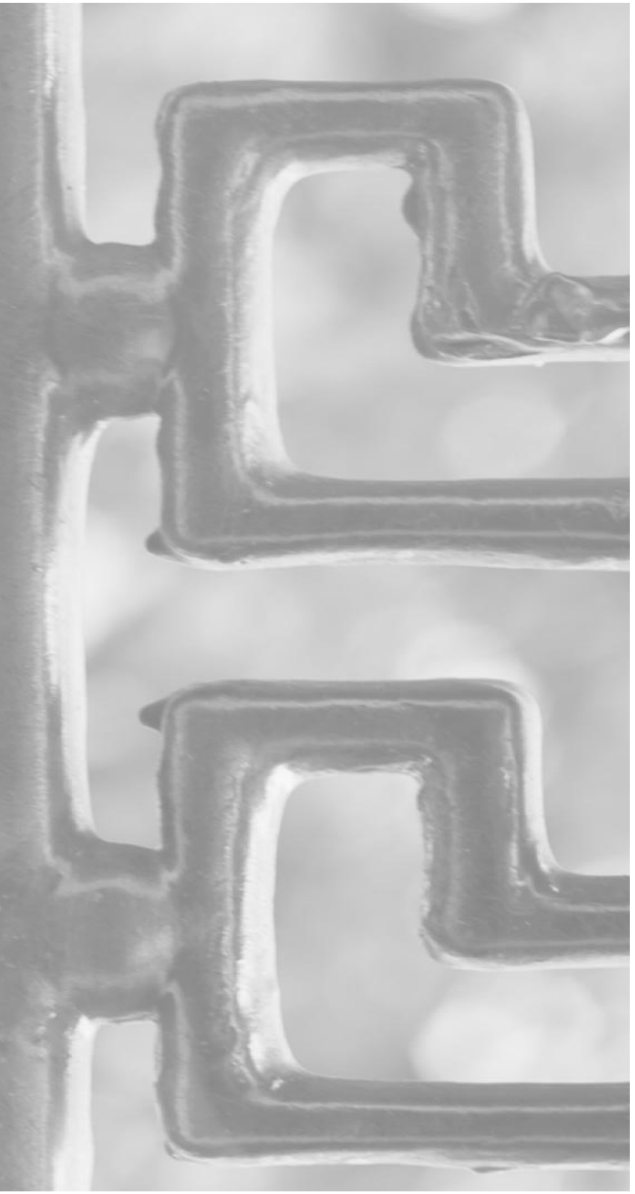


DISCRIMINATION

No discrimination (enquiry; accessing info; viewing; entering into tenancy; terms of no effect) against

(a) a person with whom a child lives or may live or visit – cl 35, 37-40

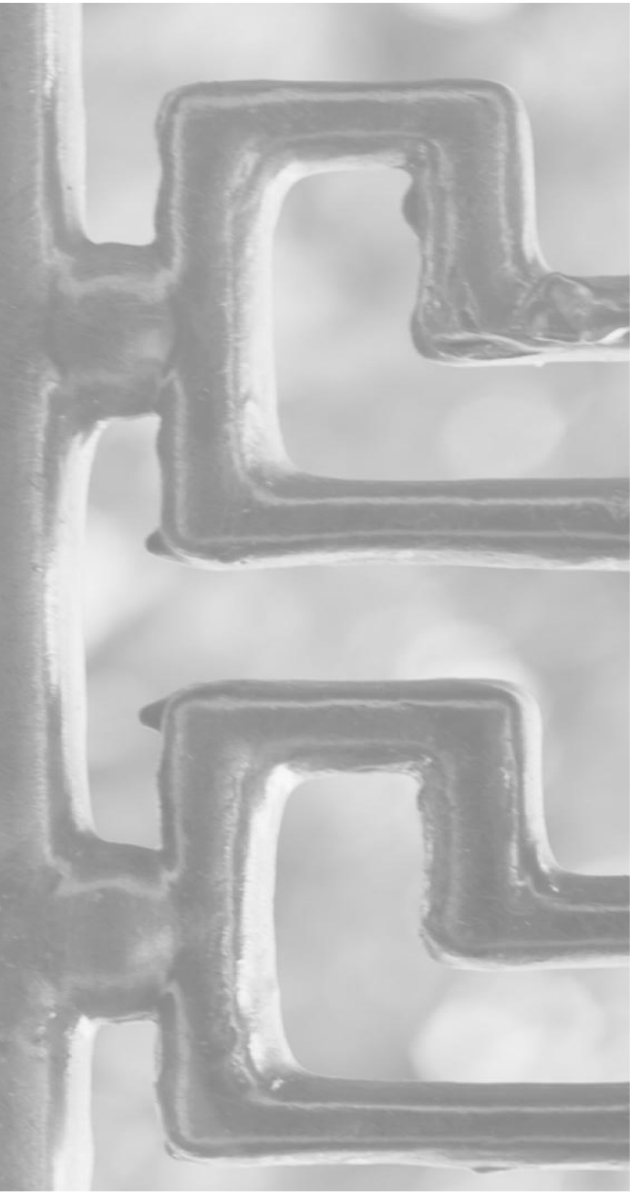
(b) Benefits claimants (nb can take income into account when considering whether person would be able to afford the rent) – cl 36-40*

- Unless

(i) (for (a)) proportionate means of achieving a legitimate aim

(ii) (for (a) and (b)) Insurance requirement

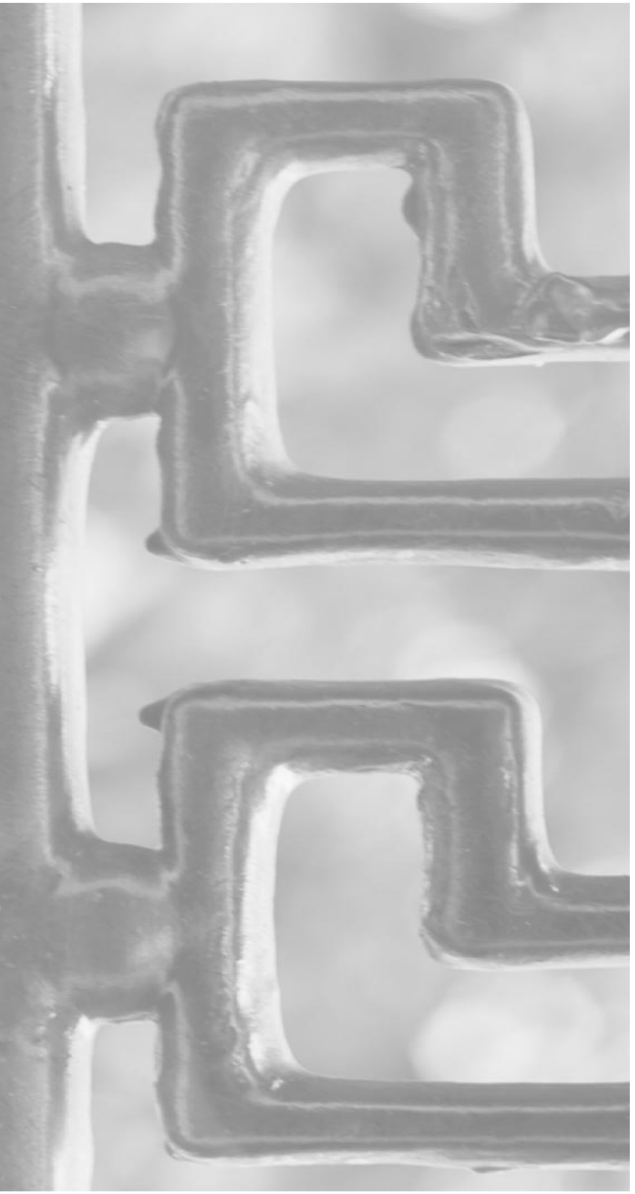
- Civil penalty of no more than 7k (balance of probabilities) – cl 42



TERMS

Requirement on landlord to give a statement of certain terms (to be prescribed) before tenancy entered: cl 14 (new s 16D, 1988 Act)

– civil penalty for failure not more than 7k



LANDLORD REDRESS SCHEMES: PART 2, CH 2, CLL 65-75

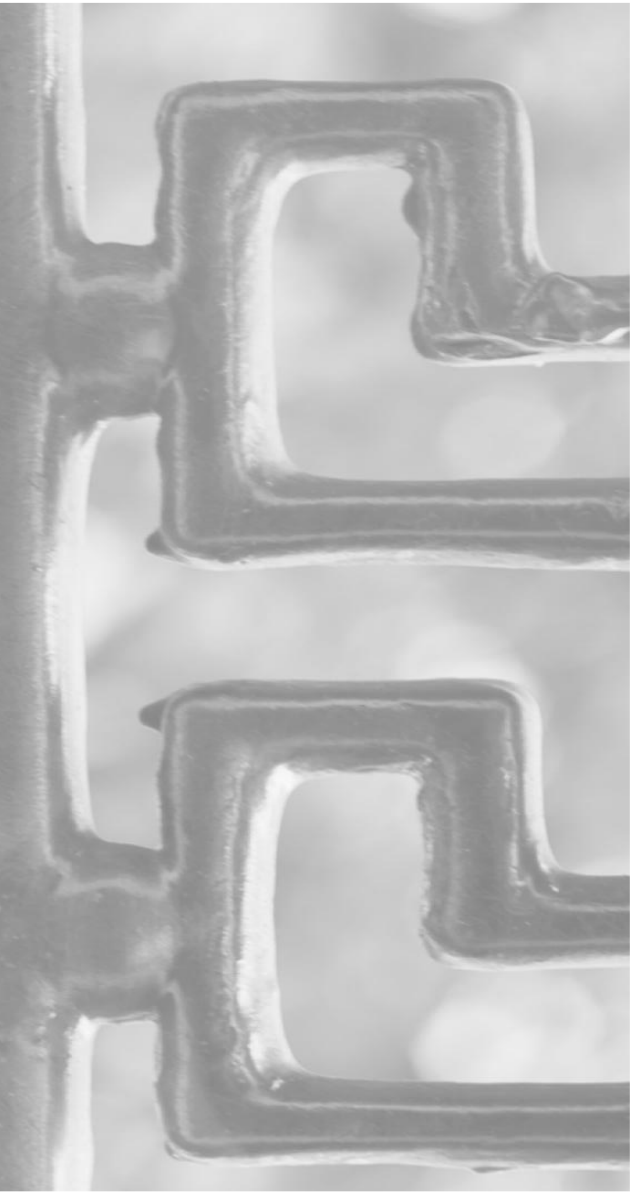
Regulation making power but anticipated that

(a) Residential landlords(*) will have to be a member of an approved redress scheme: cl 65

- ADR for complaints
- Ombuds service for PRS?

(b) Failure to join = financial penalties ("beyond reasonable doubt") and criminal offence if not joined within 28 days of penalty: cll 67-8

* Residential landlord = private sector landlord of a 1988/1977 Act tenancy



DATABASE: PART 2, CHAPTER 3: CLL 76-96

New database for private landlords and dwellings to be let on tenancies (current and prospective) – regulation powers (including for fees to be payable and to include others eg letting agents)

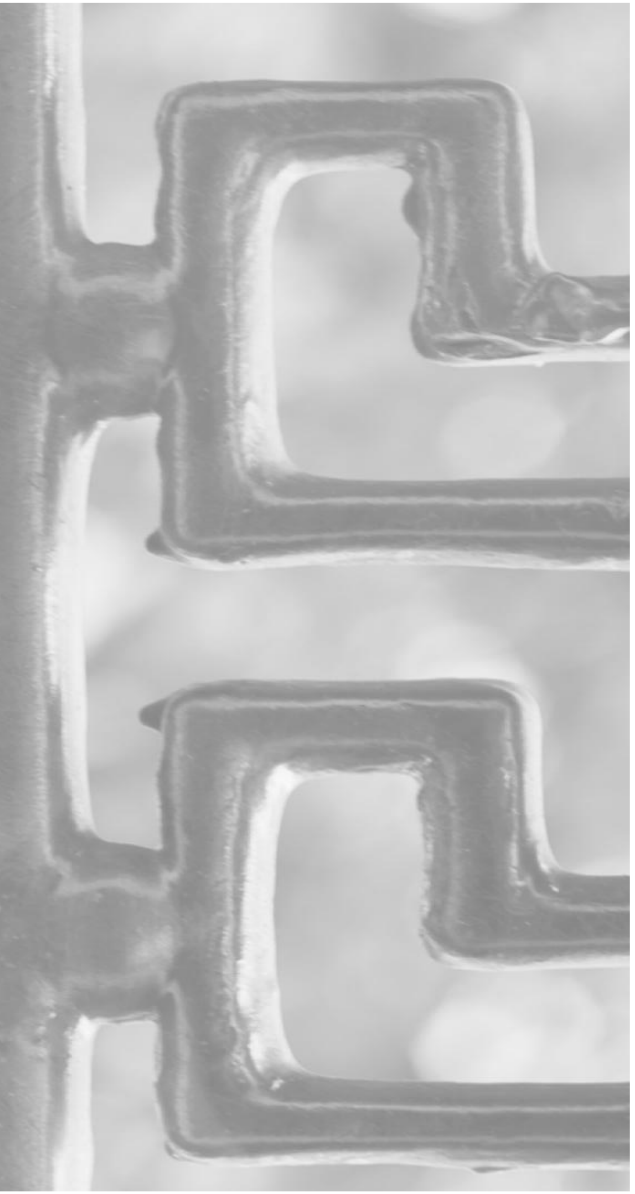
- Duty on landlord to ensure entry is active
- Property cannot be marketed or advertised or let without an active landlord and dwelling entry in the database
- Landlord and dwelling to get a unique identifier to be used in any written advert
  - NB Any tenancy granted remains enforceable

LA must make entries relating to banning orders, banning order offence, banning order financial penalty (and must take reasonable steps to ensure that any entry it has made in the database under this section is correct and up-to-date)

LAs and lead enforcement authorities and the GLA can access the database "for purposes connected with the authority's functions relating to housing, residential landlords or residential tenancies": cl 89(1)

Cannot obtain possession (other than on ASB grounds) unless active entry

Financial penalties (7k for advertising/marketing/no active entry) or criminal offence/ up to 40k cll 92-3



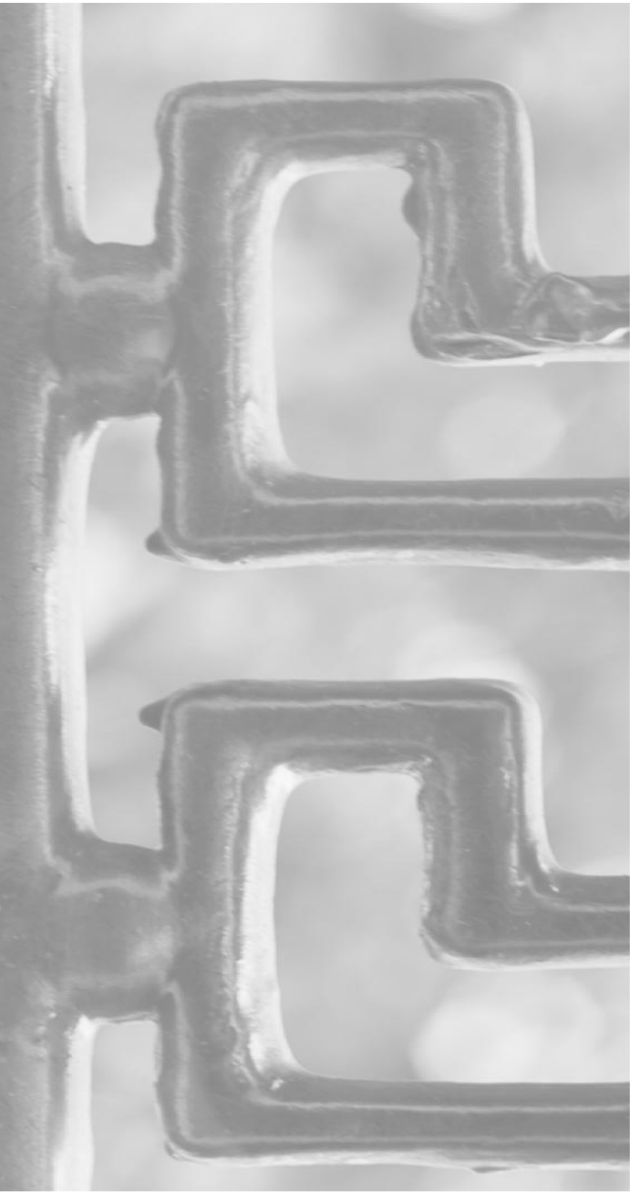
PROPOSED RENT: PT 1, CH 6; CLL 58-9

No advert or offer of tenancy unless …

- The rent is a specific among ("the proposed rent")

Cannot invite, encourage or accept an offer higher than the proposed rent

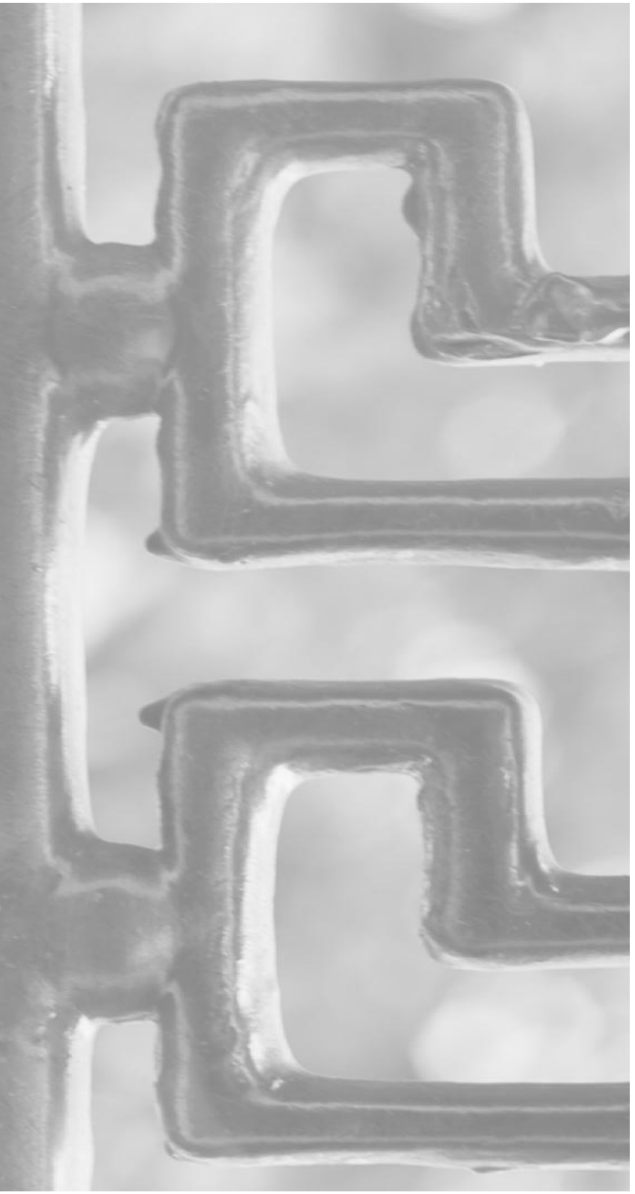
Civil penalty of not more than 7k (balance of probabilities)



UNLICENSED HMOS AND DWELLINGS (SELECTIVE LICENSING): CL 105

Offences of not having a licence extend to

- Superior landlord/owner subject to reasonable excuse and didn't know that it was an HMO
- Any person having control of or managing subject to reasonable excuse
- Any person who is the landlord or licensor of an occupant under a tenancy or licence subject to reasonable excuse



PETS: CL 12-3

Implied term of every tenancy that the tenant may keep a pet if they ask the landlord

- Consent not to be unreasonably withheld & generally given/refused within 28 days of request
- Can impose condition eg tenant has insurance or pays landlord's reasonable costs of insurance
- Insurance payments are a permitted payment for the Tenants Fees Act

HL amendment – landlord can require an additional pet damage deposit

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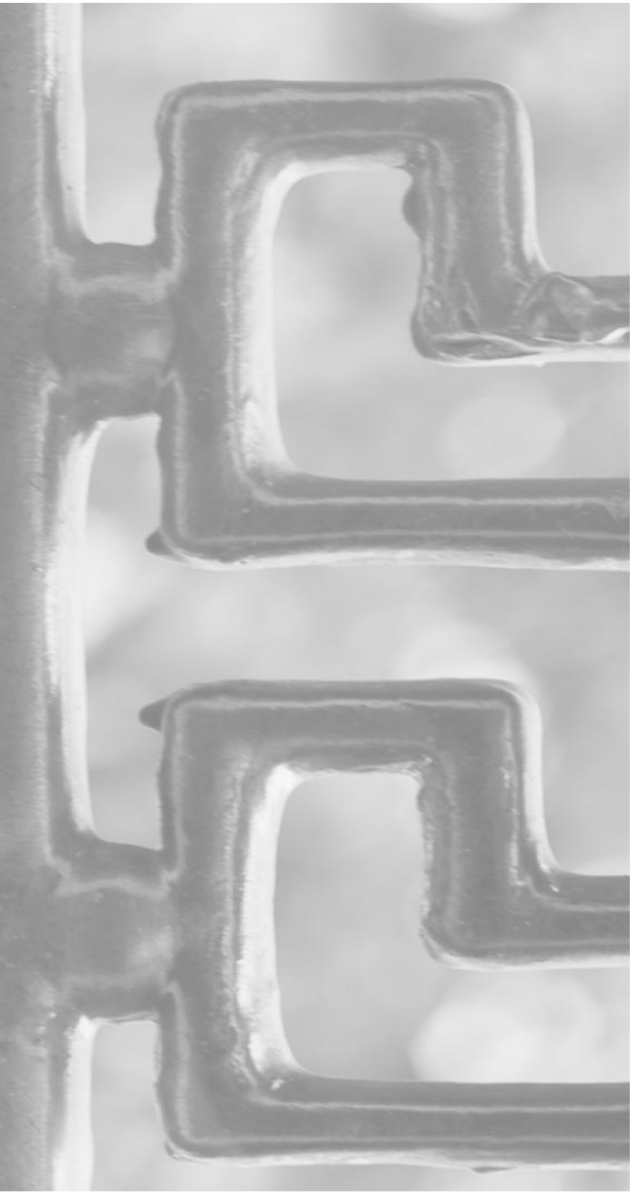
Renters' Rights Bill: Grant of Tenancies

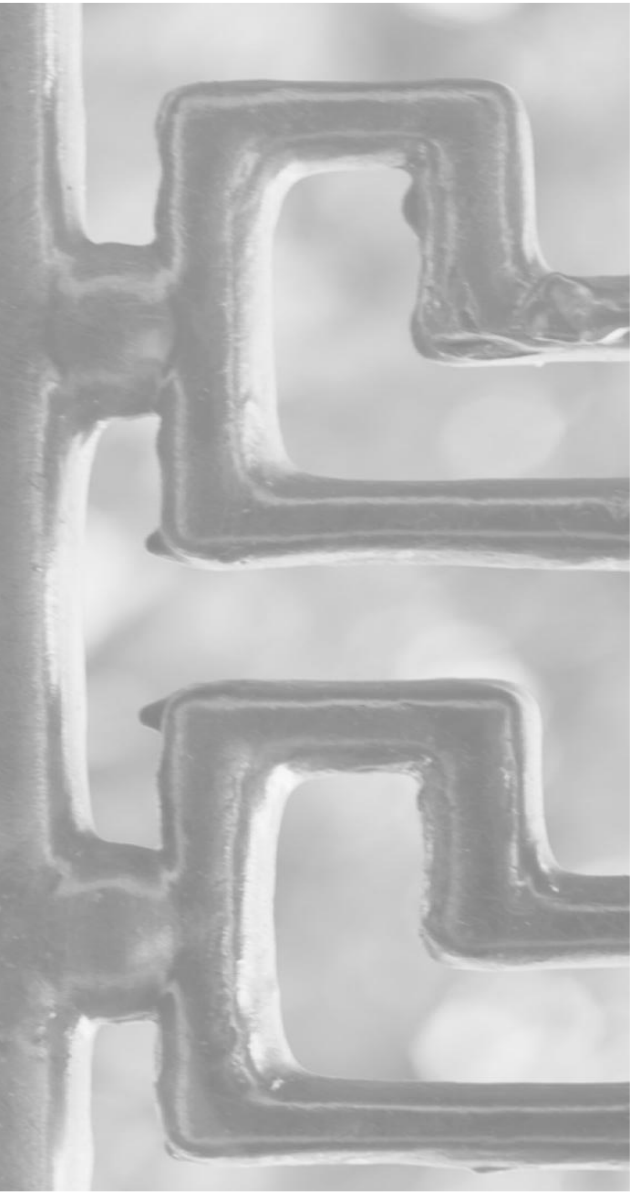
doughty street chambers

Dominic Preston



GRANT OF TENANCIES – POLICY OBJECTIVES

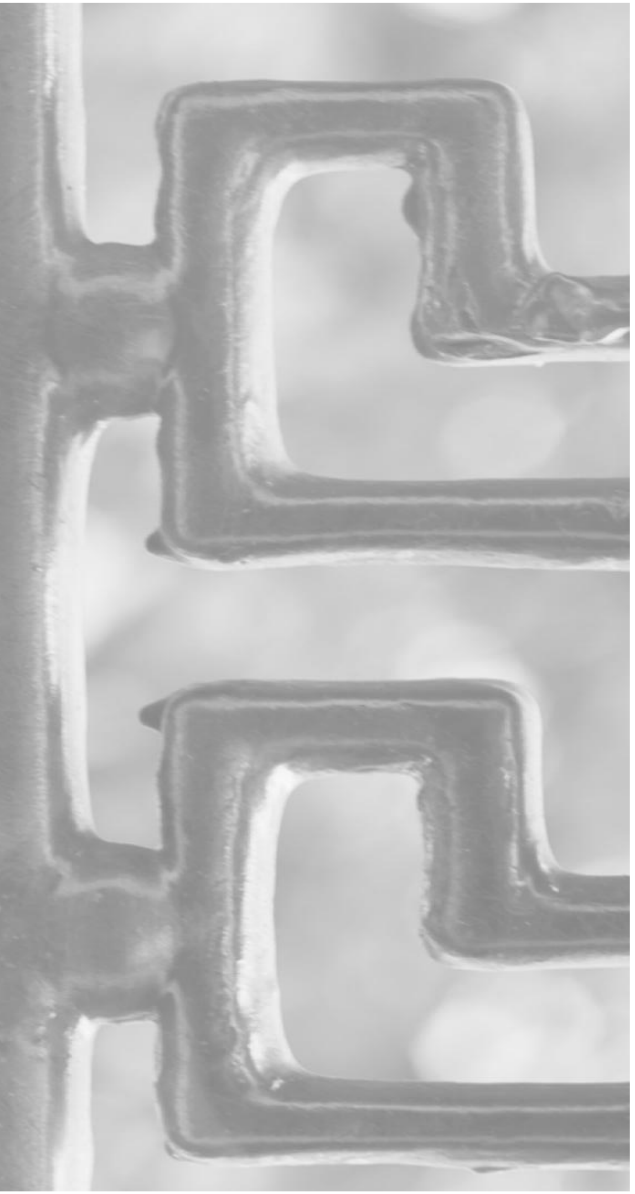
- Stability in tenure – particular families
- Better class of private landlord
- Better quality housing in private sector
- Continuation of commercially viable private rented sector
    - supply
    - Market rents
    - Repairs
- Continuing supply in specialist sectors (avoiding unintended consequences)
    - Supported housing/care sector
    - Student housing
    - Key worker housing



ABOLITION OF ASSURED SHORTHOLD TENANCIES

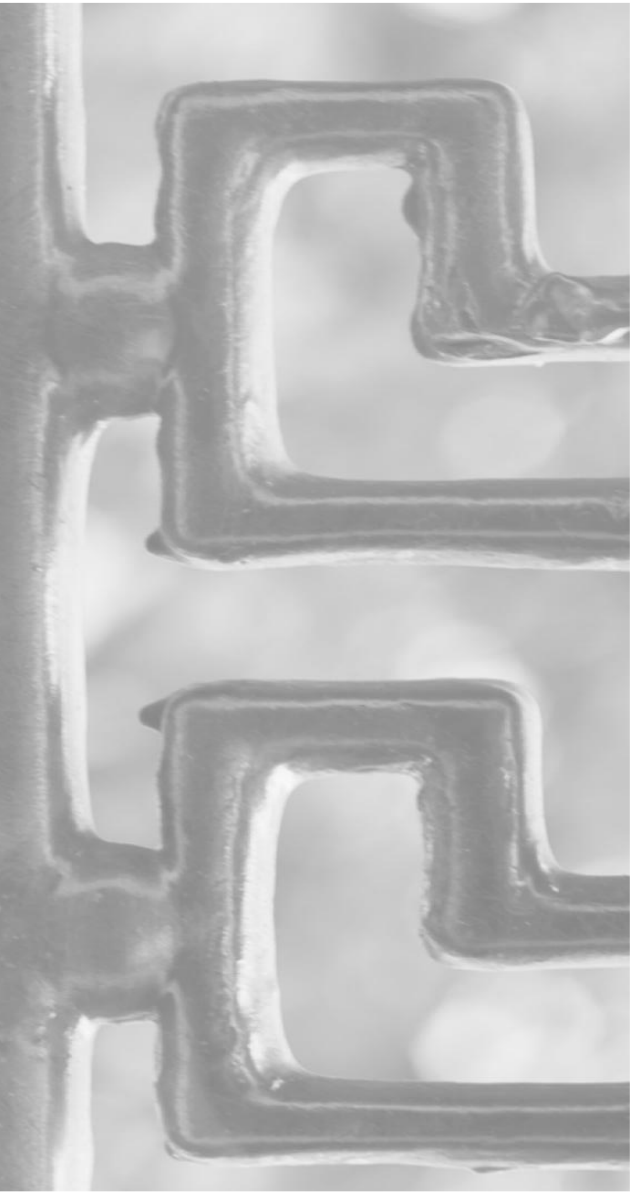
In summary:

- ASTs gone: HA 88, ss. 19-23 repealed by RRA, s. 2
- No more demoted tenancies – s. 6A repealed
- All existing AST's converted to AT's on commencement – AST survives only if valid section 21 notice already served and then only pending the conclusion of proceedings (RRA s. 145 and sch 6). Note:
  - If no proceedings issued by commencement of RRA, must do so within maximum of 3 months of commencement (Period can be shorter period! Check detail of provisions)
  - Once proceedings end, any tenancy that survives is assured tenancy.



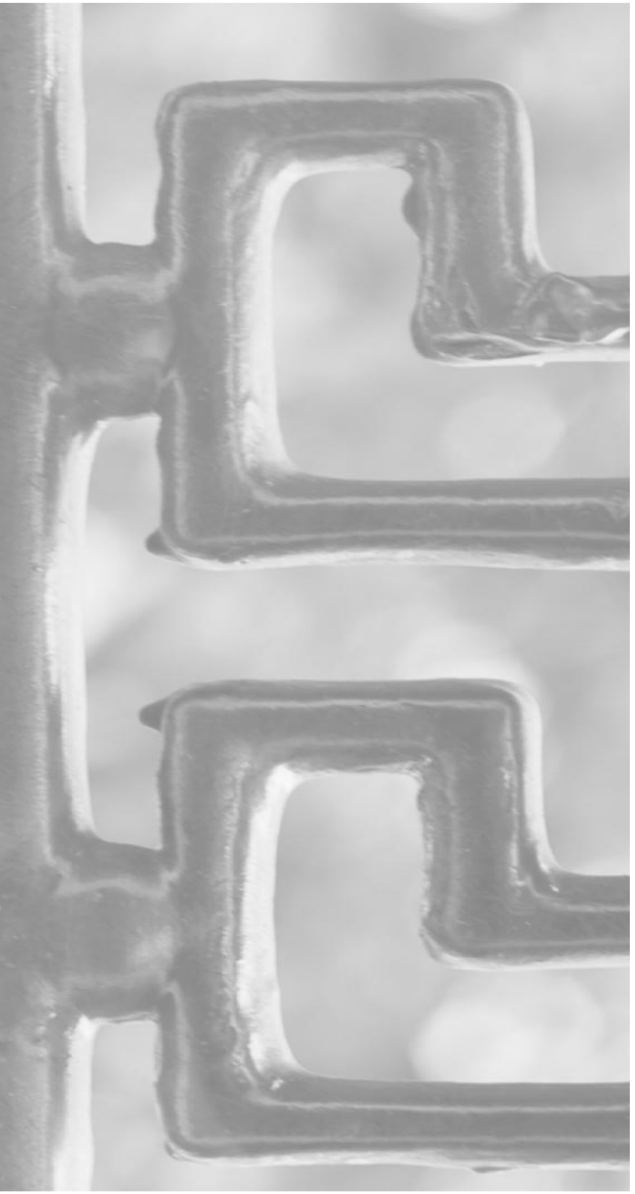
ABOLITION OF FIXED TERM ASSURED TENANCIES (1)

- Headline: New HA 88, s. 4A (RRA, s.1 and 146)
  - *No new assured tenancy can be a fixed term tenancy; All existing fixed terms become periodic*
- Focus therefore on what is *not* an assured tenancy: HA 88, Sch, 1
  - Previous principal exclusions continue: e.g. secure, Rent Act and business tenancies.
- New exclusions (RRA, s. 31):
  - fixed term tenancies over 21 years (HA 88, sch. 1, 3D)
  - *Prior* grants of tenancies of fixed terms between 7 and 21 years (HA 88, sch 1, 3E)
  - Tenancies granted as part of regulated home purchase plan (a form of rent to buy under s. 22 Financial services and Markets Act 2000)(see HA 88, sch 1, 3F)



ABOLITION OF FIXED TERM ASSURED TENANCIES (2)

- Previous fixed terms converted to periodic are treated as single tenancy (RRA, s. 146)
- Note MHCLG Guidance (updated 1/25): there should be no two-tier system – intention that all existing ASTs, fixed terms and old style notices will disappear at or shortly after commencement
- No period of assured periodic tenancy can be greater than one month (HA, s. 4A)
- Dates rent is due must match periods of tenancy
- Where conversion from fixed term to periodic and rent does not match period of tenancy:
    - New formula for calculating periodic rent
- Any terms requiring more than one month's rent in advance are void (New HA 88, s. 4B).

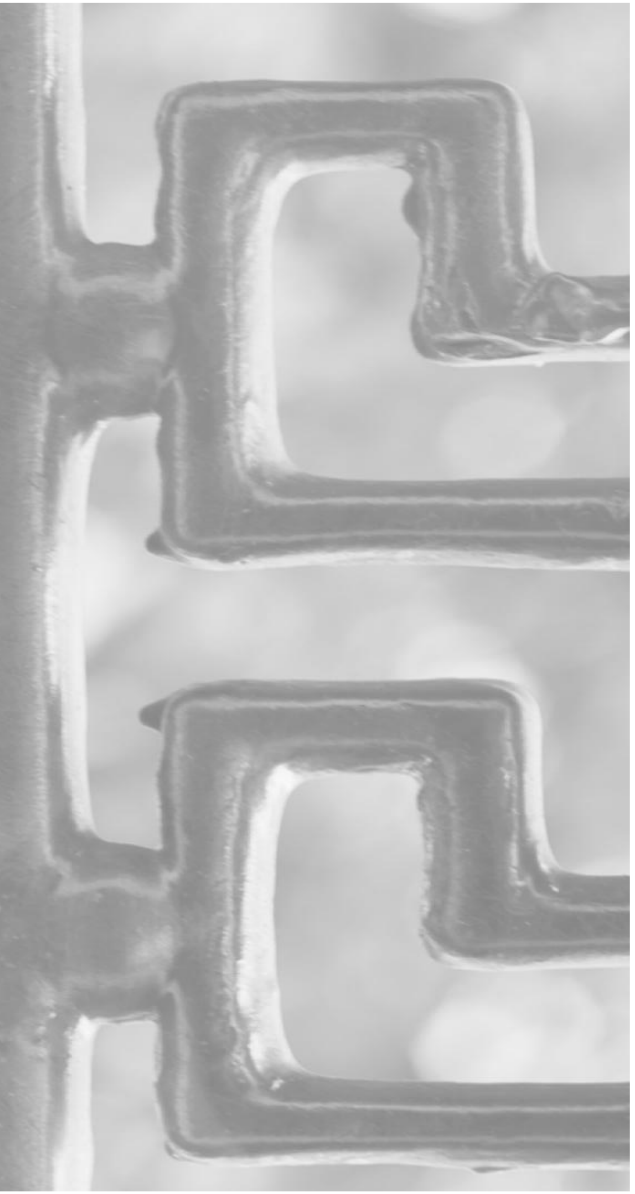


ABOLITION OF SHORTHOLD AND PERIODIC TENANCIES – POTENTIAL CONSEQUENCES

- Periodic tenancies since time immemorial
- Shorthold tenancies (in one form or another) since 1981 (HA 1980)
- Lack of security of tenure created by s. 21 was part of economic revolution: right to buy, home ownership, buy to let mortgages, removal of rent control
- Consequence: many sectors structurally dependent on ASTs/fixed terms – interference likely to affect supply in some areas

RRA consequently retains *lack* of security in *some* sectors:

- Generally – grounds 1 and 1A – family needs, need to sell
- Student accommodation
- Homelessness: temporary and s.193 accommodation
- Supported housing/Care sector



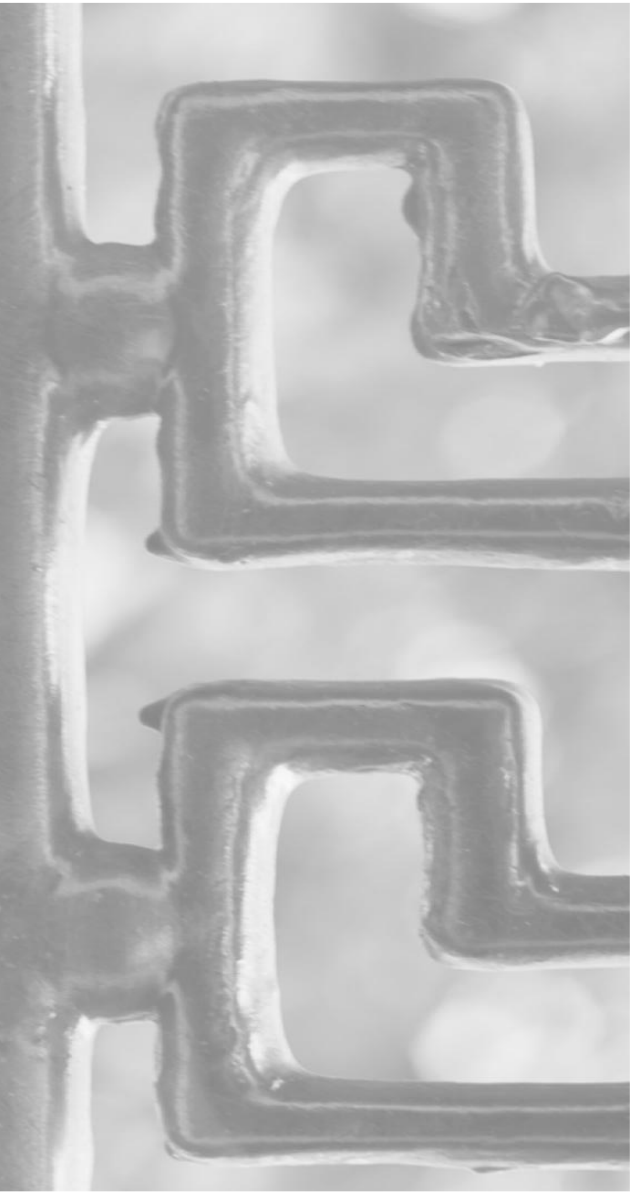
CONSEQUENCES ON AGREEMENTS PROHIBITING SUB-TENANCIES

Context:

- Leases, tenancy agreements, mortgages, insurance products will often prohibit sub-tenancies unless they are AST's and/or they are tenancies for limited fixed terms
- Need to avoid raft of landlords who are themselves leaseholders or mortgagees from being in breach of head lease on commencement of RRA

Transitional provisions (RRA, sch 6, part 2):

- Applies to prohibitions in leases/tenancies, mortgages and insurance products that impact on assured tenancies
- Prohibition will not apply insofar as it is inconsistent with the RRA –
    - any conversions are <u>not</u> a breach.



CONSEQUENCES: TENANCY DEPOSITS

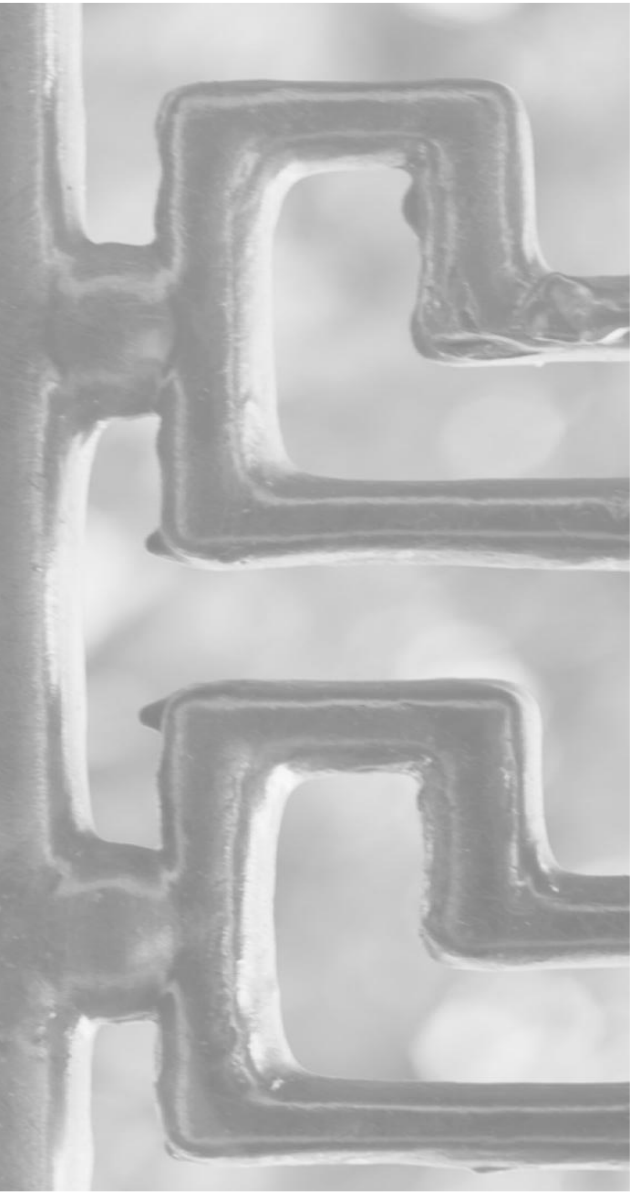
Current position:

- In practice scheme does not impact on social landlords – they do not ask for deposits and/or they grant assured tenancies
- Scheme aimed at private rented sector landlords – but does so by targeting ASTs

With abolition of ASTs:

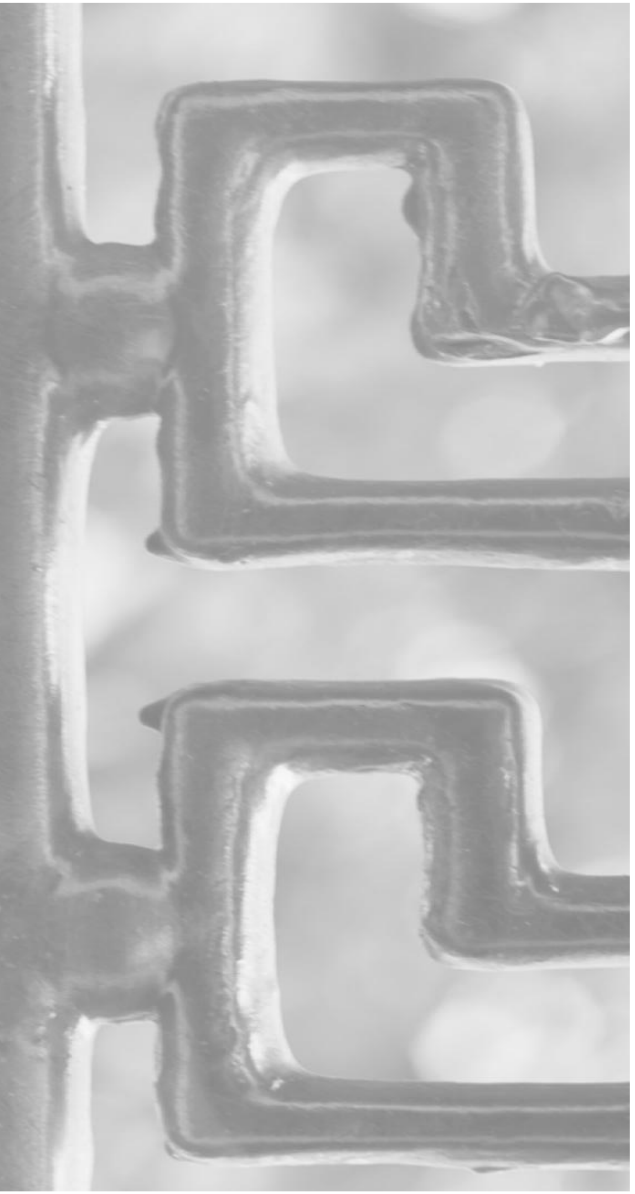
- Scheme now applies to all assured tenancies (HA 2004, s. 212 as amended by RRA, s. 26)
- Sanctions for non–compliance:
  - Claim for penalty (HA 2004, s. 214) - no practical change
  - New s. 215 – no right to possession on *any ground* if failure to comply unless ASB ground (i.e. grounds 7A and 14)

Note: No retrospective requirement to register deposit where grant of *assured* tenancy was *before* commencement of RRA (RRA, sch 6 para 11; HA 2004,s. 215(9))



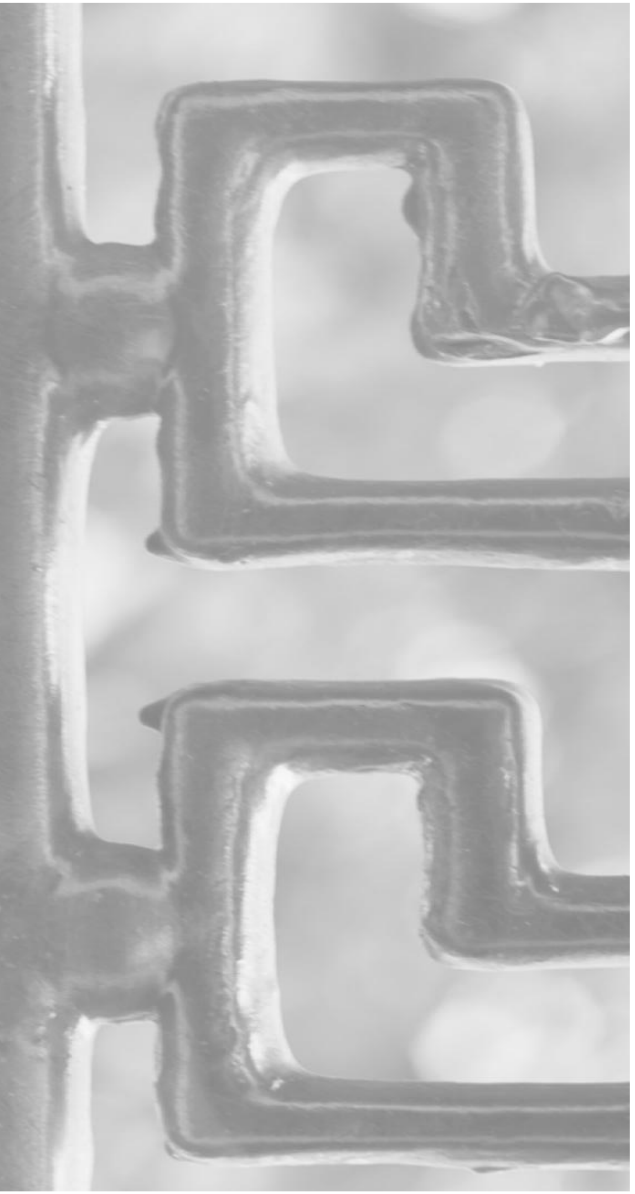
CONSEQUENCES: HOMELESSNESS (1)

- Threatened with homelessness If *s. 8 notice* served requiring possession within 56 days (s. 175(5) as amended by RRA sch 2, para 48)
- Harsher consequences if applicant fails to take steps agreed in PHP
  - Previously 193 duty downgraded to 193C(4) duty and provision of 'less secure' accommodation;
  - Failure now results in ***no*** duty being owed to applicant at all – even those who would otherwise be owed 193 duty (HA 193C as emended by RRA, s. 25(3))
- S. 193 discharge– final discharge to private rented sector now necessarily to assured periodic tenancy



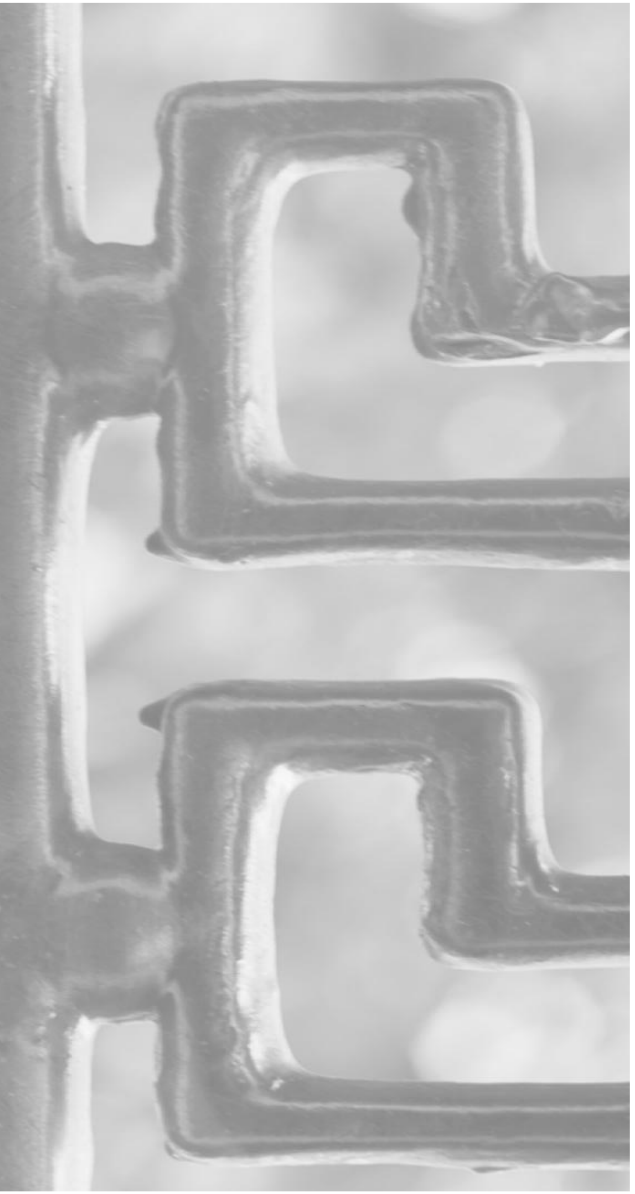
CONSEQUENCES: HOMELESSNESS (2)

- 195A repealed:
  - 195A gave 'full' duty to those reapplying within 2 years of discharge despite no longer being in priority need
  - Repealed as considered unnecessary given greater security of assured tenancy in private rented sector;
- 193 accommodation likely to be granted pursuant to assured tenancy (but could be licence).
- New mandatory ground 5G (HA 88, sch 2; RRA sch 1 para 18 and 26). Ground met if:
  - section 8 notice gives four weeks notice (or court dispenses with notice)
  - A period of occupation in property was pursuant to 193 duty
  - Local authority gave notice to landlord that property is no longer required for purposes of that duty
  - section 8 notice was served within 48 weeks of L/A giving landlord such notice (see new HA 88 s. 8 and ground 5G(b)).



CONSEQUENCES FOR STUDENT ACCOMMODATION

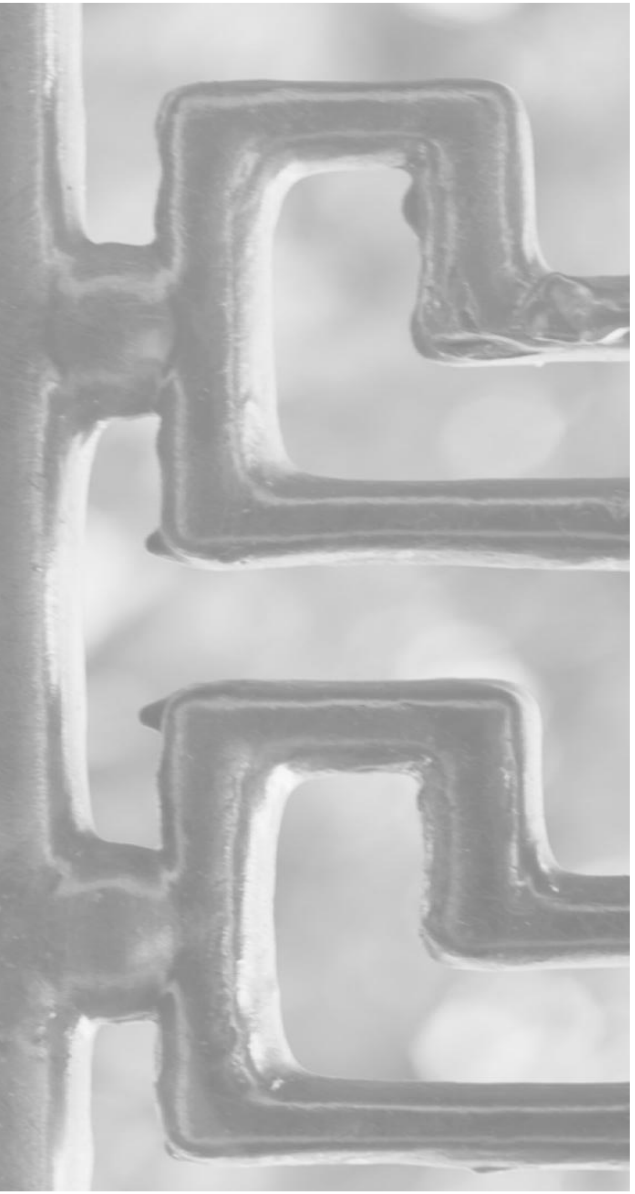
- Student accommodation generally run by private sector: Purpose built blocks, HMOs – no longer run by 'institutions'
- Current legislation:
  - Exclusion from security of tenure limited to educational establishments – HA 88, sch 1, para 8.
  - Grd 4 – limited aim: recovery of unused student accommodation occupied in short term by others
- Private sector market: current supply maintained for new students by annual churn of fixed term assured shorthold tenancies.
  - Size of churn: half a million students in London alone
- RRA, s. 32: continuation of supply by limiting security of tenure for accommodation used by students:
  - New HA 88, sch 1, para 8 (and regulations to come) include exclusion from tenure where landlord is a member of specified housing management code of conduct
  - New ground 4A where landlord relets accommodation annually to students (and landlord not part of conduct scheme)



CONSEQUENCES FOR SUPPORTED HOUSING

- Meaning of supported accommodation: granted by social landlord to a tenant receiving care, support or supervision (HA 1988, sch 2 part 5, as inserted by RRA, sch 1, para 25)
- Examples: sheltered housing; shared house with resident carers; supported hostel for mental health patients recently released from hospital.
- New grounds of possession in HA 88:
  - 5E – keeping supported accommodation let to others 'in the ring'
  - 5F – designed to allow types of supported accommodation to continue to function as they do now – I.e to control who occupies accommodation according to (e.g.) need, behaviour, engagement, funding
  - 5H – recovery of stepping stone accommodation
  - New Ground 18 – recovery for non engagement with support offered

<u>FOR DETAILS – SEMINAR 2</u>



CONSEQUENCES FOR 'TIED' ACCOMMODATION

- New grounds restricting security of tenure to reflect difficulties in local supply of workforce
- New grounds not just for tied accommodation - relate to other work-related needs :
  - Need for accommodation as a perk of the job;
  - Housing for low income workers unable to afford private sector rents
  - Need for key workers or specific professions
- Intended to preserve housing supply for employment related accommodation
  - 5A – accommodation needed for agricultural workers
  - 5B – accommodation needed for persons who *'meet requirements connected with their employment'*
  - Ground 16 (let in consequence of employment) is now mandatory ground 5C and expanded
  - 5D – related employment has come to an end

FOR DETAILS – SEMINAR 2

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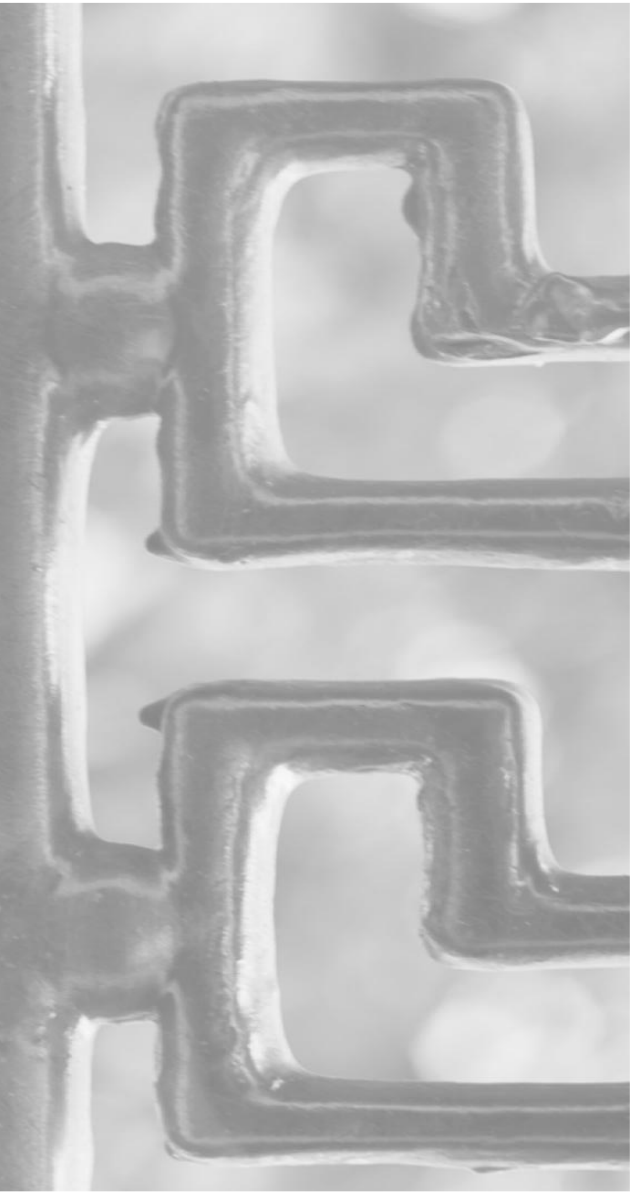
Renters' Rights Bill: During the Tenancy

doughty street chambers

Cara Hall



DUTIES OF LANDLORDS – ANTI-GAMING

Clause 15 of the Bill inserts a new section 16E into the Housing Act 1988 which prohibits the landlord from:

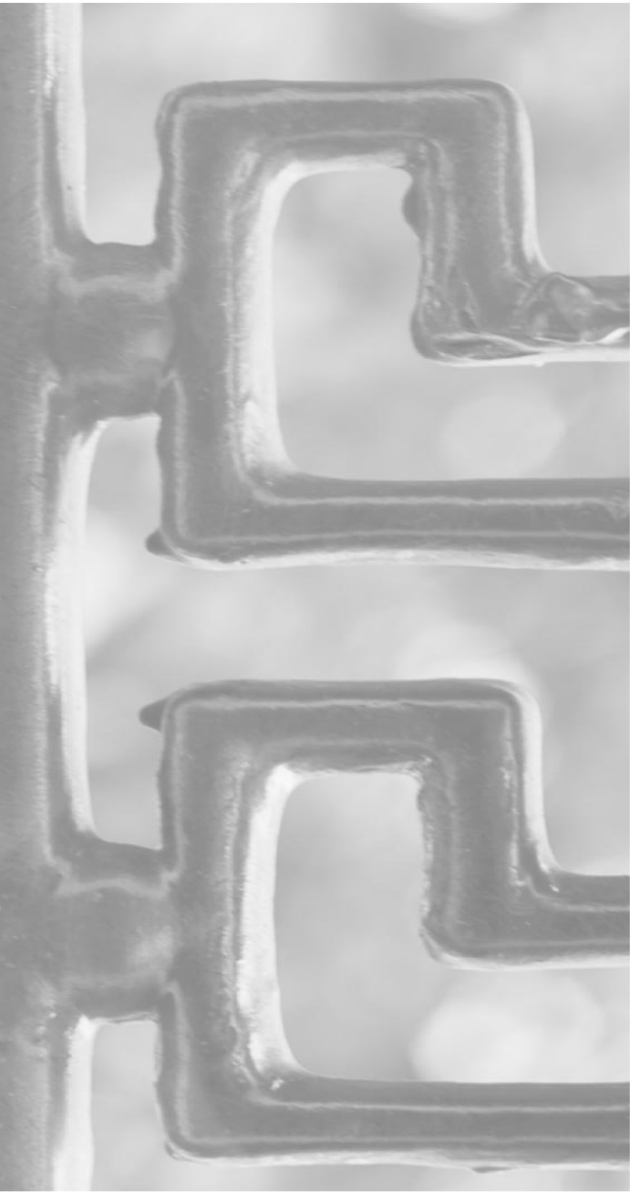
a. Purporting to let a property for a fixed term

b. Purporting to bring a tenancy to an end by service of a notice to quit

c. Purporting to bring a tenancy to an end orally

d. Serving a purported notice of possession, as defined in the new section 16M of the Housing Act 1988 (see cl 19 of the Bill)

e. Relying on a ground in schedule 2 where the landlord does not reasonably believe that the landlord may be able to obtain an order for possession on that ground

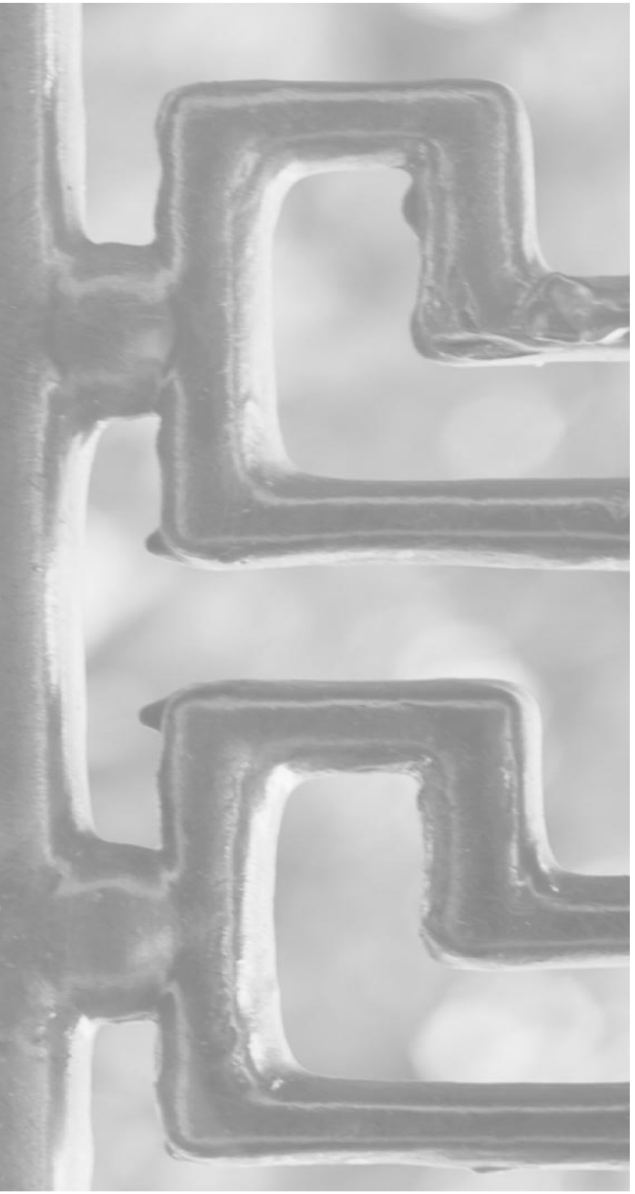


DUTIES OF LANDLORDS

The Local Housing authority can impose a financial penalty for breach of the above if it is satisfied beyond reasonable doubt that the landlord contravened the above. The Local Authority can only impose a penalty for breach of (e) if the tenant surrendered their tenancy without an order for possession of the property within 4 months of the contravention.

I will be discussing enforcement by Local Authorities in our Part 2 Seminar.

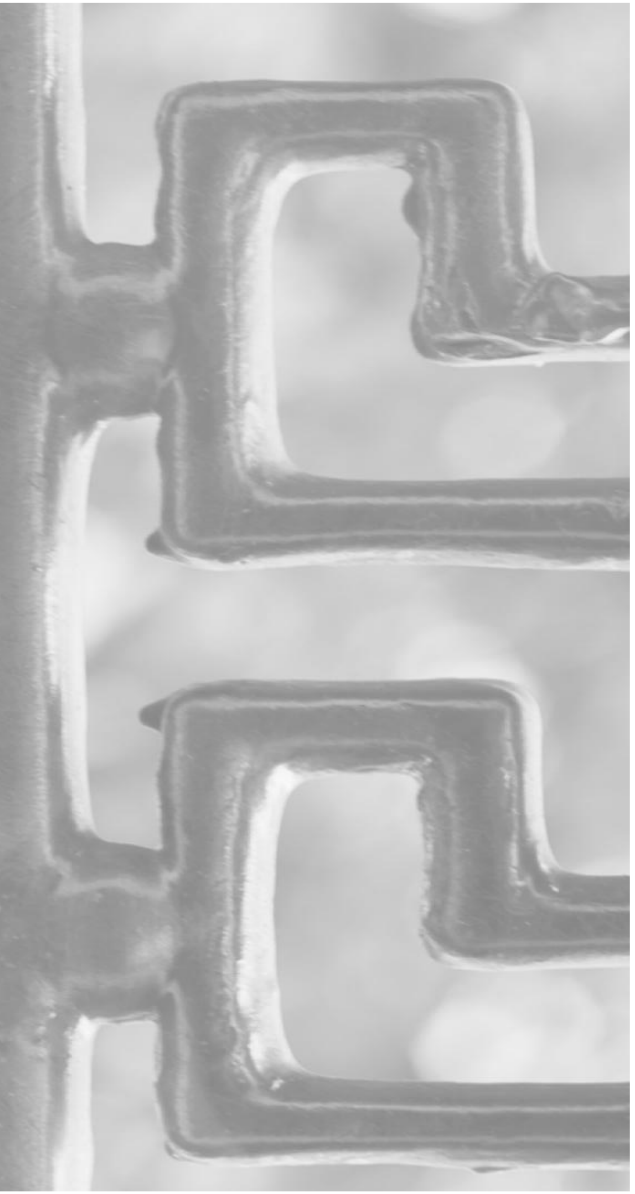
There will also be a detailed discussion by Marie and Dominic in respect of possession proceedings in Part 2.



REMEDYING HAZARDS - TENANCIES

Clause 62 of the Bill amends the Landlord and Tenant Act 1985 so that section 10A (which currently only applies to social tenancies) applies to all tenancies for less than 7 years. Section 10A requires the landlord to take action in relation to prescribed hazards within specific time frames prescribed by the Secretary of State ie Awaab's Law. Section 62 will extend Awaab's Law to the private sector.

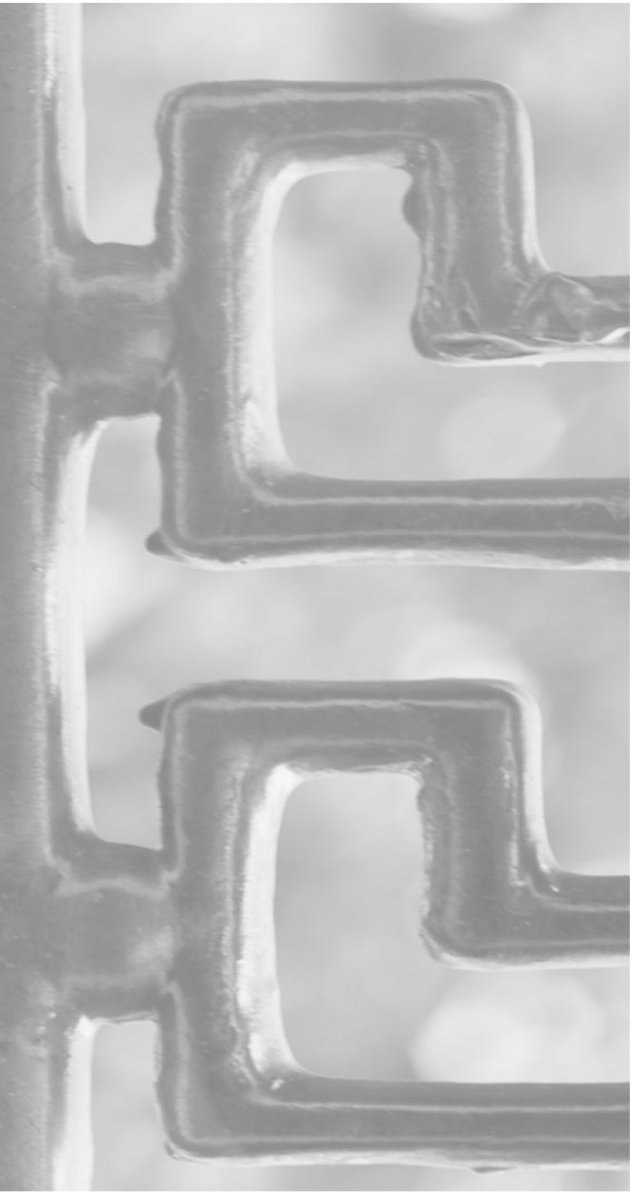
Draft Regulations currently exist: the Hazards in Social Housing (Prescribed Requirements) (England) Regulations 2025. This will have phased implementation from October 2025, initially only applying in respect of the hazard of damp and mould.



REMEDYING HAZARDS - LICENCES

Clause 63 of the Bill makes provision for Awaab's law to be extended to licences by inserting a new section 10C into the Landlord and Tenant Act 1985, under which the Secretary of State *may* make regulations specifying a description of licences to which Awaab's Law will apply.

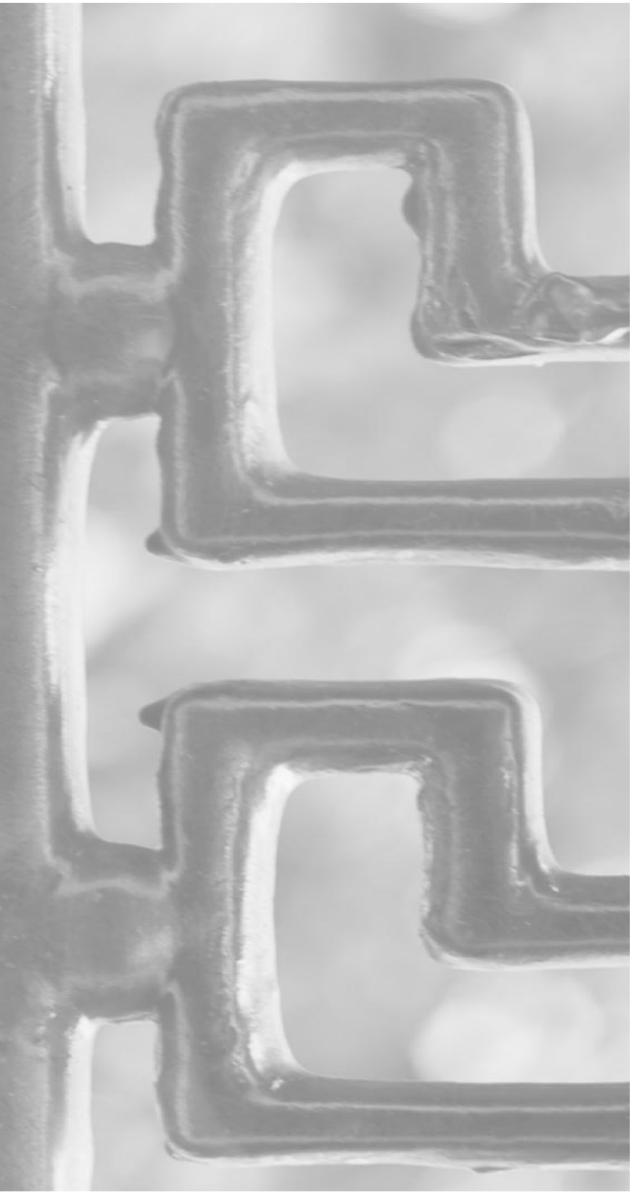
There are no draft regulations extending it to licences currently.



DECENT HOMES STANDARD

Clause 101 of the Bill amends the Housing Act 2004 to provide the Secretary of State with the power to make regulations to specify requirements that must be met by "qualifying residential premises" and enforcement of the same ie the setting and enforcement of the decent homes standard. Such requirements may include but are not limited to the state of repair, things to be provided for use by or the safety, security or comfort of occupants, and the means of keeping the premises at a suitable temperature.

"Qualifying residential premises" are defined as dwellings under an assured tenancy or Rent Act tenancy, HMOs and supported exempt accommodation UNLESS the same is social housing provided by a PRPSH (because PRPSHs are already required to meet the decent homes standard, overseen by the Regulator of Social Housing).



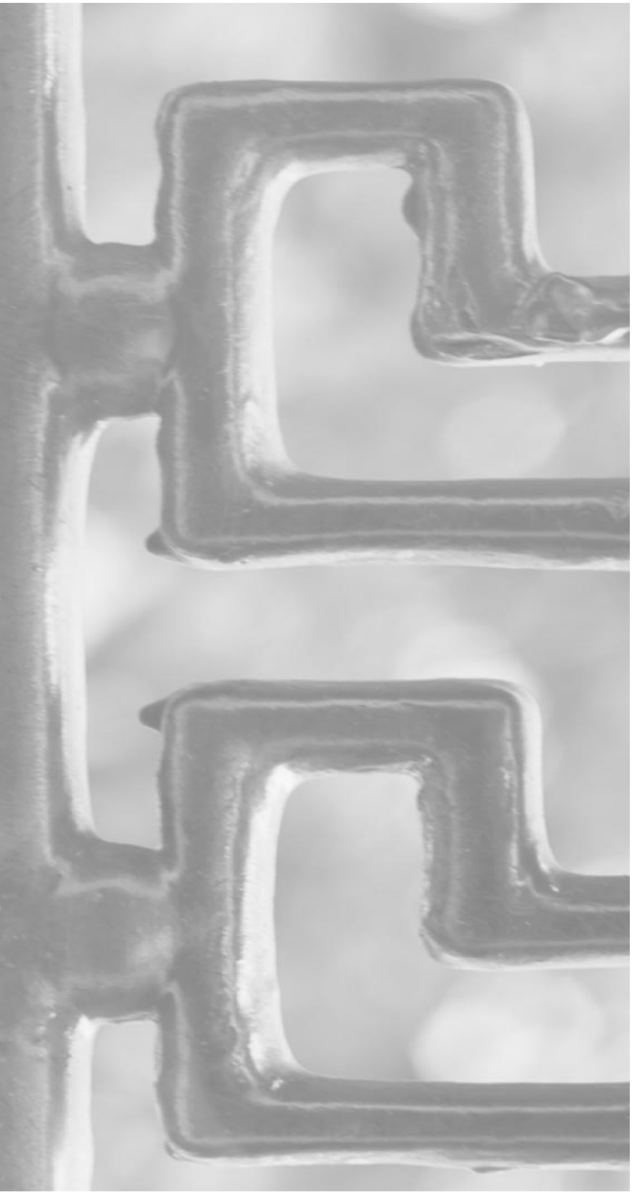
RENT INCREASES – PRIVATE TENANCIES

Clause 7 of the Bill concerns rent increases. It amends section 13 of the Housing Act 1988 so that two months notice of any increase must be given (cl 7(4)) and so that the rent can only be increased by (cl 7(7):

1. A notice under section 13; or
2. A determination by a tribunal under section 14 following service of the section 13 notice; or
3. Following service of a section 13 notice, agreement by the landlord and tenant of a rent lower than that proposed in the notice or an agreement that the rent is not to be varied; or
4. Following a determination by the tribunal, an agreement in writing between the landlord and tenant agreeing a rent lower than that fixed by the tribunal.

The tenant can challenge at the tribunal either the validity of the notice (under new section 13B of the Housing Act 1988) or challenge the amount of the increase under the amended section 14 Housing Act 1988: see clause 8 of the Bill.

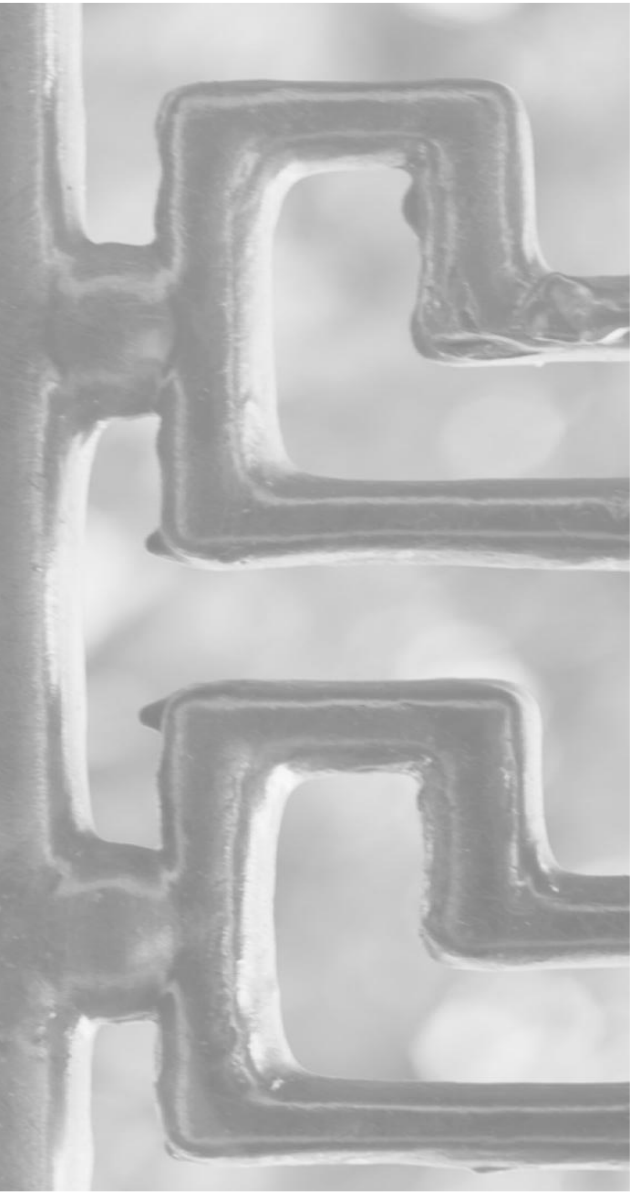
Siobhan McGrath, President of the FTT (Property Chamber) will be discussing the role of the tribunal and its approach to challenges under section 14 in our Part 2 Seminar on 2 October 2025.



RENT INCREASES – SOCIAL TENANCIES

Section 13 does not apply to social housing tenancies: see cl 7(2) and (4C). Instead, a new section 13A will be inserted (see cl 7(9) for rent increases for social tenancies ("low-cost tenancies"). Social landlords will be required to give one month's notice of any increase in the prescribed form. The rent can be increased yearly, and will take effect on the date specified in the notice unless the landlord and tenant agree a different variation of the rent or agree that the rent should not be varied.

Social tenants have no right to apply to the tribunal: see cl 8(3) of the Bill.



TENANT'S NOTICE TO QUIT

Clause 22 of the Bill amends section 5 of the Protection of Eviction Act 1977 in respect of a notice to quit by a tenant:

1. The tenant cannot be required to give more than two months notice (less notice can be agreed in writing ie in the tenancy agreement, but not more). At least 4 week's notice must be given
2. Notice can be given by any written means – "any provision that would bind a tenant as to the means of giving a notice in writing is of no effect."
3. Notice can be withdrawn any time before the date on which it takes effect by the landlord and tenant agreeing in writing: cl 21 of the Bill, which inserts a new section 5A into the Protection from Eviction Act 1988.

Marie and Dominic will be discussing possession by the landlord in detail during Part 2.