The Bulletin

SWLA
South West Landlords Association

December 2018

2018 Roundup and Renewals

The South West Landlords Association annual membership renewal was due on 1st November. As we go to press, 80% of members have renewed for the forthcoming year. Those who have not renewed will be unable to access the members area to download documentation and will receive a reminder from office staff.

In a typical year we lose 10% of the previous year's membership due to property sales and transfer BUT increase overall membership with new members. Last year, membership was up by 5%, finishing at over 800 members. SWLA has increased it's membership by 50% in the last 5 years. The majority of our members are in the postal areas of BS, TQ, EX, PL and TR (although some members are further afield and are just as able to access our facilities via the recently updated website).

The steady increase in membership has necessitated the addition of a new member of staff. Mandy joined Office Manager Gillian and Senior Administrator Anna in May of this year. The office is a hive of activity. As well as organising 10 Accreditation and other landlord courses and completing over 60 accreditation applications for the year, they average 120 telephone queries and 50 member visits to the office every month. This is in addition to the 10 or so emails per day, new membership applications and general office administration.

The association represents landlords with local authorities; Cornwall, Plymouth, Bristol, Torbay, Exeter and Teignbridge.

The two major changes in legislation this year were GDPR and HMO licencing. They have been well covered in previous bulletins. To access previous bulletins, view the SWLA News and Articles area of the website.

After prolonged and active lobbying, SWLA have achieved a discount in HMO licencing fees for those landlords gaining accreditation with Plymouth giving £150.00 discount per licence and Exeter £125.00 discount per licence.

As an association we will continue to represent landlords' interests throughout the South West. We look forward to your continued support.

Iain Maitland, Vice Chair

Continued on next page...

2018 Roundup and Renewals

Some of the most frequently asked questions of the office staff have been;
Q. Do I need to register with the ICO for GDPR?
A. Yes since 25/05/18 (unless you qualify for exemption).
Q. Do I need to licence a property with 5 or more tenants forming more than one household?
A. Yes, if they share facilities (toilet, bathroom or kitchen), since 01/10/18 - consult local authority.
Q. How much notice do I need to give a tenant when issuing a Section 21, 6a notice?
A. No less than 2 months' notice (give at least a few days extra to allow for service), not to expire in the fixed term period.
Q. What documentation do I need to give tenants along with their AST?
A. See the back page of the SWLA AST document. Ensure tenant signs and dates to acknowledge receipt BEFORE they sign the AST.
Q. I cannot find the Form 77, how do I access it?
A. This has been discontinued due to GDPR.
Office staff receive numerous other queries on topics such as deposits, section 8 notices and anti-social behaviour.

Upcoming SWLA Training Courses

Landlord Accreditation Course, Tuesday 29th January 2019
Course covers ASTs, Deposits, Section 21s, Sections 8s, HMOs, Gas & Electrical Safety, Inventories and more. Can lead to accreditation if required.

Landlord Training Course; End of Tenancy Including Possessions, Monday 4th February 2019
Course covers Abandonment, Rent Arrears, Anti-Social Behaviour, Tenancy Enforcement Issues, Section 8 Forms, Section 21 Forms, Court Forms and Procedures, Bailiffs, Legal Updates and more.
Places secured upon receipt of payment, please contact the office to book. All courses £65.00 for members. £75.00 for non-members. Courses take place at Plymouth Guildhall, 9.30am-4.30pm.

Some HMO Landlords Set to Receive Letters from Mortgage Lenders

On 1st October 2018, a legislation update changed the definition of licensable houses in multiple occupation to all 3 of the following needing to apply;

- It is rented to 5 or more people who form more than 1 household
- Some or all tenants share toilet, bathroom or kitchen facilities
- At least 1 tenant pays rent (or their employer pays it for them)

Previously, only homes over three or more floors with five or more tenants sharing cooking and bathroom facilities needed a mandatory HMO licence.

David Whittaker, chief executive of Keystone Property Finance and Adrian Moloney, sales director for One Savings Bank, highlighted how some landlords were already receiving letters from their buy-to-let lenders regarding properties which may now require a license.
Mortgage lenders are writing to HMO landlords asking that they switch their properties back to single buy to lets or repay their loans. The lender's view is that mortgages would not have been granted if the homes were licensable HMOs at the time of application. Continuing to rent the homes as licensable shared houses breaches the condition of their loans.

Mr Whittaker hopes that a common-sense approach will be taken by lenders; "This is the law of unintended consequences in full effect and you would expect some common sense from lenders. Lenders should say that, as long as there are no changes to the property or that the landlord doesn't want a further advance, that they can keep the loan."

Article Abridged from FT Advisor

Deregulation Act 2015

The Deregulation Act was introduced in 2015 and made significant changes to section 21 eviction rules for Assured Shorthold Tenancies. At the time of the introduction, it was only applicable for tenancies commencing after 1st October 2015. As of 1st October 2018, the rules apply to all Assured Shorthold Tenancies.

The main points to know for serving tenants notice;

- Notice given under Section 21 of the housing Act 1988 MUST be given on the correct form; a Form 6A.
- Landlords must give tenants NO LESS THAN TWO MONTHS notice, SWLA recommend at least 2 months and a few days-notice if delivering the notice to the tenants address by hand. More if posting the notice. (SWLA recommend hand delivery for Section 21 notice).
- Landlords cannot serve the notice within the first four months of the tenancy.
- Landlords cannot serve the notice following a legitimate complaint from a tenant in writing about the condition of their home.
- The notice must not expire within the fixed term.
- A Section 21 notice has an expiry date of 6 months. If no possession proceedings are actioned within that 6 months, the notice expires.
- Landlords must serve the correct documentation (prescribed information) prior to serving the Section 21 notice for it to be valid.

Documents

Prior to tenants signing their Assured Shorthold Tenancy agreement, landlords must provide tenants with the most current How to Rent Guide, printed from the gov.uk website to ensure that it's the latest version. This is applicable for tenancies that started or renewed after 1st October 2015. SWLA recommend that tenants sign to acknowledge receipt of this guide along side the time and date of receipt at the back of their AST document.

For all Assured Shorthold Tenancies, landlords must provide their tenant with an EPC (Energy Performance Certificate) and a Gas Safety Certificate. This is to be provided prior to the tenant signing their tenancy agreement, again they should sign, date and state the time of receipt of the document on the back of their tenancy agreement. Gas Safety checks must be carried out periodically and not become out of date. Each time the Gas Safety check is completed, a certificate must be given to your tenant.

If, at the time of service of a Section 21 notice a landlord realises that they have not served the tenant with an EPC or Gas Safety Certificate. These documents MUST be provided prior to the Section 21 notice being served, at least a day before the Section 21 notice is served. If the tenancy began or was renewed after 01 October 2015, the tenant also needs to have received a How to Rent Guide. Again, if this hasn't been served, serve it to your tenant before issuing them a Section 21 notice. If your tenancy began before or has not been renewed since 01 October 2015, the 'How to Rent Guide' would not have needed to have been served as it was not published before that date. HOWEVER, to avoid any issues with the Section 21 in court, SWLA recommend that even for older tenancies, the most up to date 'How to Rent Guide' is served to your tenant before you issue them with a Section 21 notice.

Where documents are not served or are served later than they should have been, this will likely be picked up in court and may affect landlords gaining possession of their property.

Adequately Protecting Your Biggest Business Asset

As one of two landlord insurance providers for SWLA members, Excaliber Insurance Services will be writing a series of guidance articles on the subject of landlord insurance in the coming quarterly bulletins in 2019.

Your single biggest asset is the property that you are letting to your tenants. You may have purchased the property specifically to let it to tenants, or it may have become a rental property through a change in circumstances – regardless of this, making sure it is insured is vitally important as unlike many businesses that simply relocate in the event of a serious incident, such as a fire, you will need to ensure that your property can be rebuilt or repaired in the event of a catastrophic incident.

A significant number of Insurers who provide buildings insurance to Landlords do so on the basis of you providing a sum insured (or rebuilding cost) for your property. The adequacy of the figure you provide is generally not questioned by the insurance company until an incident occurs that gives rise to a claim.

Following a significant incident such as a fire or serious storm damage, Insurers will normally appoint a loss adjustor to review the circumstances of the claim to ensure it is covered under the terms of the insurance policy. At this point it is also customary to check that the sum insured is adequate (to rebuild the property) – even if the damage caused may not require the complete rebuild of the property.

In the event that your sum insured is deemed to be inadequate by your buildings insurers, it is highly likely that they will “apply average” – meaning that the insurer can reduce their liability for a claim by applying a proportionate approach. So, if you have only insured your property for 50% of its actual rebuild value, then your insurer could only pay half of the claim that you have submitted.

Your buildings sum insured may have come from a variety of sources but normally it is from a reinstatement or rebuilding cost figure provided by a mortgage lender. However, if this was not the case or even if it was (but was done over 3 years ago) it is important to undertake an assessment either using the rebuilding cost calculator provided by the Royal Institute of Chartered Surveyors or by employing the services of a Chartered Surveyor who will give an accurate assessment of rebuilding cost.

It is important to consider that rebuilding costs will be unique to each property as they not only take into account basic buildings materials and the labour to rebuild but also include factors such as improvements to the property (e.g. extension or enhanced kitchen/bathroom) and lesser considered factors such as stone boundary walls, site clearance and even ease of access to the site.

In summary, if you have a landlords buildings policy with a sum insured that has not been reviewed in the last 3 years it is recommended that you check the property against the RCIS rebuilding cost calculator or contact a local Chartered Surveyor to assess the correct rebuilding cost. Alternatively, you may wish to seek out a landlords buildings policy that gives cover up to a fixed limit, such as £1m, to avoid the need to assess the adequacy of your buildings sum insured.

For full details on the sources that were used to compile this article and to access a link to the RCIS rebuilding cost calculator please visit ***www.excaliber-insurance.co.uk/swla_guidance***

Budget 2018 – What will affect landlords?

Monday 29th October 2018 saw Chancellor Phillip Hammond present his Budget to Parliament. There were very few announcements for landlords. However, there were a few statements around personal tax which may offer some respite. Here we have a summary.

Landlords earning up to £50,000 a year will pay less income tax. In line with every other taxpayer, the personal allowance threshold, the rate at which people start paying income tax at 20%, rises from £11,850 to £12,500 in April 2019 – a year earlier than planned. The higher rate income tax threshold – the point at which individuals start paying tax at 40% instead of 20% – goes up from £46,350 to £50,000, also in April 2019. The rise in personal allowance thresholds increases the amount a landlord can earn before paying higher rate tax.

Hammond also proffered another tax break by increasing the annual investment allowance (AIA) for property businesses from £200,000 a year to £1 million from January 2019, for two years. Landlords can offset the cost of plant and machinery, such as furnishings, against the AIA.

The chancellor also focused on principle residence relief (PRR), which allows landlords to offset part of a capital gain when they sell a home that they lived in for some of the time they have owned it. Principally, from April 2020 lettings relief will be permitted only for owners sharing with tenants, with the aim of keeping family homes out of capital gains tax. The relief is potentially worth £40,000 to each property owner. Hammond also cut the 18-month PPR exemption in half for landlords – down to nine months. The exemption allows each landlord to include a tax-free period in their CGT calculation. However, he balanced the CGT cuts with increasing the annual tax-free amount from £11,700 to £12,000 for each owner.

Raising the higher rate income tax threshold also means landlords are entitled to a larger slice of any gain at a CGT rate of 18% before they move to the higher rate of 28%.

The budget announced some sizable changes in multiple areas including increases to the National Living Wage, an extra £500m for preparations for leaving the EU, an extra £160m for counter-terrorism police and a confirmation of an extra £20.5 billion for the NHS over the next five years.

Article abridged from Hamilton Fraser

SWLA intend a tax presentation by a specialist at the April/May 2019 General Meeting.

Do You Need a Carbon Monoxide Alarm in Your Rented Property?

Landlords must ensure that there is a carbon monoxide alarm fitted in any room that is used partly or wholly as living accommodation which also contains any appliance which burns, or is capable of burning, solid fuel. This would include log and coal burning stoves and open fires, even if they are not normally in use.

Gas is not a solid fuel and so there is no requirement to fit one near a gas boiler or appliance unless recommended by a Gas Safe engineer.

Some landlords fit a carbon monoxide alarm even where there is no requirement to do so. This is seen as best practice.

Smoke Alarms

Landlords must ensure that a smoke alarm is fitted on each storey of the premises on which there is a room used wholly or partly as living accommodation. Living accommodation will include a lounge, dining room and kitchen as well as a bathroom or toilet. It also includes a hall or landing. This means that a smoke alarm must be provided in working order on each storey. Mezzanines are caught by this legislation where they contain a room used wholly or partly as living accommodation, including a bathroom or toilet.

With individual flats located on one floor, there will have to be at least one alarm within the flat itself or alternatively one provided outside the flat on the same floor of the premises, i.e. a communal alarm.

Likewise, for flats comprising more than one storey there will need to be a smoke alarm on each floor.

****Reminder****

You must test alarms at the start of an Assured Shorthold Tenancy agreement, face to face, in front of the tenant. The tenant and landlord should then time, date and sign to acknowledge that the test has taken place before the tenancy agreement is signed.

Inheritance Tax - A Brief Outline

Given that many landlords have at least 2 properties (their residence plus one or more rental property) landlords need to review and understand their Inheritance Tax position. There are several tax reliefs available to landlords. SWLA encourage members to seek tax advice from a tax specialist. Here is an overview.

Nil rate bands

This currently stands at £325,000 (this band has been frozen until the end of 2020/2021 tax year). This means you would not pay inheritance tax on the first £325,000 on your estate. If you make a transfer to a trust or if transfers are made in the 7 years prior to your death, these can also use up this nil rate band, which are added to your assets and passed down in your estate.

Main residence nil rate band

This is a recent change currently being phased in, with the idea that this further allowance will help make it possible for parents to pass on their property to their children. The relief applies to a lineal descendant so a child or grandchild for example but not a nephew or niece.
The relief is being phased in at;
£100,000 for 2017/18
£125,000 for 2018/19
£150,000 for 2019/20
£175,000 for 2020/21
Once fully enforced, this means the tax-free limit will be £500,000.

There is a clawback for those with estates valued at more than £2 million. There are also complex provisions to combat those 'downsizing' prior to death.

Spouse transfers

If you leave all or part of your estate to your spouse, it would be treated as an exempt transfer and thus there would be no inheritance tax payable (if your spouse is domiciled in the UK). You can also pass any unused nil rate band to your spouse. Therefore, if on death the whole estate is left to the surviving spouse, the nil rate band available to that spouse is doubled. i.e. their estate is able to claim not only their nil rate band but also that of the deceased spouse. Note, there is no need to leave the whole estate to the surviving spouse in order to qualify for the spousal transfer, as the rules only require there to be an element of the unused nil rate band. The main residence nil rate band is also transferable in the same way.

Gifts and exemptions

There are certain gifts during your lifetime which are exempt from inheritance tax and do not follow the potentially exempt transfer rules (known as the 7-year rule). Due to the size of these exemptions they are unsuitable for passing down properties. There is an annual exempt amount of £3000 per year per individual that can be made which is exempt from inheritance tax. You can also make small gifts of £250 which are exempt, but you lose this exemption completely if the £250 is exceeded. You can also make gifts out of income from your estate which are exempt from inheritance tax, as long as they do not affect the standard of living of the individual making the gift.

Other points

There are several other reliefs available, so you should obtain advice. Inheritance tax is an extremely detailed and complex area. Seek advice from a property tax specialist.

Article abridged from RLA

Universal Credit and Rent Arrears

If a tenant gets into difficulty paying their rent, their landlord can apply for an alternative payment arrangement (APA) managed payment to landlord (MPTL). An APA (MPTL) can be requested by the claimant, their representative or their landlord, and they are considered on a case-by-case basis. This can occur at any stage of the UC claim. A landlord can ask for rent payments to be made direct from their tenant's Universal Credit but only where the tenant continues to live in the property to which the rent and arrears relate.

You can apply for a MPTL using the UC47 form. Rent arrears deductions can also be requested on the same form. If due purely to rent arrears, a tenant/claimant can be put on a MPTL when they have 2 months' or more worth of debt with their landlord or have accrued 1 months' worth over a 2 month period.

Although rent arrears are the most common reason for requesting an MPTL, there are other considerations that are taken into account. Claimant consent is not required for an MPTL request, although the claimant is given 7 days to prove they are not in the arrears necessary for an MPTL, or are in a formal dispute with the landlord (that is registered with the Local Authority).

In exceptional cases a claimant may be withholding rent due to issues with their tenancy. DWP staff will still clarify with the claimant that they are in more than 2 months genuine rent arrears & the APA will not be imposed if the arrears are not genuine.

Claimants who already have managed payments to landlords for their legacy Housing Benefit claim are offered this option when they join UC, provided the relevant criteria continues to be met. This will allow our work coaches to determine whether a managed payment to the landlord for the Universal Credit Housing Element may need to be applied and will prompt a conversation with the claimant. This change will introduce an important safeguard and help ensure that those who do need this support, get it. It will also help ensure that claimants receive appropriate budgeting support, by providing a further prompt for the work coach to discuss this with the claimant.

How to Apply for a MTPL (APA)

1. Go to the gov.uk UC47 form online. Type in your tenant's post code. Complete and print a UC47 'non-secure' gov.uk form, scan and email the form to the email address provided on the form. (remember to keep a copy).
2. Alternatively, print and complete the UC47 'secure' form and send by post to the Universal Credit Freepost address (remember to keep a copy).

Note, the only difference between 'non-secure' and 'secure' UC47 forms are that the 'secure' forms hold more sensitive personal information on the landlord and tenant. If emailing the form, you must use the 'non-secure form'. If posting, you can use the 'secure' form as these allow for more information to be recorded. Do not send a 'secure' form by email, it will be deleted due to data protection legislation

Continued on next page...

3. Claimant (tenant) is given 7 days to respond in case there is a dispute that they are in fact not in arrears.
4. A case manager will contact the landlord to obtain bank details and other necessary information to set up the MPTL (APA). All cases are assessed on an individual basis. Details from a third party ie the claimant's representative, their caseworker and/or their landlord can be used to inform a decision.
Once the APA is in place, the following information can be disclosed to the landlord, if requested:
- The start date of the managed payment and/or third-party deduction
- When you can expect to receive the first managed payment and/or the third-party deduction from DWP
- The amount of the next payment of the housing costs.
- If there have been any changes to the UC housing costs, the reason for the changes will not be provided or discussed

Where a Managed Payment is refused, and the tenant has not given explicit consent to DWP for information to be shared with their landlord, the notification issued to the landlord will not advise the landlord if their tenant is currently getting Universal Credit, nor will it advise them of the reason why the application for a Managed Payment has been refused. This is due to data sharing regulations and claimant confidentiality.

If you have any difficulties with your UC47 application or have not heard from DWP after a month of sending your UC47, you can call your local DWP Office for advice.

How Many Times Can an Ex Tenant Seek Compensation for a Breach of Deposit Registration?

Howard Davies v Scott.
County Court at Clerkenwell & Shoreditch, 18 January 2018;

In another deposit compensation case, the Judge here asserted that section 214 of the Housing Act refers to breach in the singular and that multiple tenancies would still only give rise to one penalty award.

In this case, Howard Davies took an AST for a fixed term of two years paying a deposit of £4,100. The tenancy continued beyond the fixed term for a further three months as a Statutory Periodic tenancy. On move out, the landlord (Mr Scott) had issues about the condition of a carpet among other things and refused to return the deposit. When asked about deposit protection, Scott gave an erroneous ID number; in fact the deposit had never been protected. Scott disputed the claim stating he was unaware the annual rental threshold for an AST has risen to £100,000 in 2010. Negotiations commenced then failed so Davies took proceeding for two penalties, one for each tenancy. Scott then came up with a counterclaim of some £25,000 for alleged property damage.

Most of the counterclaim was dismissed and the Judge awarded three times the deposit as a penalty stating that Scott's ignorance of the change in rent threshold was not a valid defence. However, the Judge dismissed the claim for further compensation on the commencement of the Statutory Period tenancy because in her view, the wording in S 214 was singular and this amounted to one penalty only. The Judge stated that the Deregulation Act amendments to the 2004 Act had not addressed this point, first raised in Superstrike.

The Judge ordered the return of the deposit plus three times as penalty less £1,610 for damages but plus cost in respect of which Scott was ordered to pay £15,000 on account.

Note: Other courts have decided that the penalty is payable on each and every occasion of a new tenancy where the breach of deposit protection has not been rectified. The matter is unlikely to be settled until a case is taken to the Court of Appeal. Given some of the high deposits taken, it will not be long before an ex tenant appeals.

Article from Stephen Fowler

Landlords with F or G Rated Properties to Pay Up to £3500.00 to Improve Energy Rating

Landlords with F or G rated properties will be expected to pay up to £3500 for energy improvements from 01 April 2019. This should not affect many landlords as most properties have already been brought up to at least an E rating.

Since April 2018, landlords who own some of the least energy efficient properties have been required to bring their properties at least up to an E rating where support is available to cover the costs. From 01 April 2019, regardless of whether support is available to cover the costs, landlords will be expected to make the improvements costing up to £3500.00.

The average cost of to improve F or G rated properties up to band E is £1200.00.

If upgrades will cost more than £3500.00, the landlord will be able to register for an exemption.

It is unlawful to rent a property which breaches the requirement for a minimum E rating, unless there is an applicable exemption. A civil penalty of up to £4,000 will be imposed for breaches. This applies to new lets and tenancy renewals AFTER 1st April 2018 and will apply to all existing tenancies from 1st April 2020.

Article abridged from RLA

Some assistance in the form of grants or loans may be available from energy companies or local authorities. See their website for further information.

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IN THE COURTS

Taking the Law into Your Own Hands Can be an Expensive Mistake
Ryan Insalaco v i) One Room UK ii) Paulo de Souza iii) Alisson Teixeira.
Willesden County Court. 6 July 2018;

This is a fascinating eviction case relating to a tenancy of a room in a shared house. This was an Assured Shorthold Tenancy of the room only. The start date and fixed term were not clear. Insalaco, the tenant went on holiday for a week in Feb 2017, leaving a note on the door as to his whereabouts and requesting his flatmate let One Room UK, his landlord know he would be away on the rent payment day. On his return, the locks had been changed and his belonging had been packed up and moved out. He was unable to contact One Room who were insisting he give them an address to send his possessions. The room was to be re let. Some of the possessions were indeed sent, some lost and the remainder damaged. Insalaco instructed solicitors on 24th Feb 2017 but they were unable to obtain an address for service. In October 2017, proceedings were issued for damages arising out of an unlawful eviction. One Room UK were not a registered company, so the solicitors applied for substituted service by email and this was granted. No defence was filed and a default judgment was granted on 26 February 2018 to include Paulo De Souza and Alisson Teixeira as defendants, being the individuals trading as One Room UK.

There was a disposal hearing set to assess damages in July 2018, but none of the defendants appeared. The damages were assessed at a total of £36,557.36. This was made up of general damages, an award for harassment, aggravated damages, special damages and unusually, exemplary damages (plus interest). Added to this was costs with an order that £7500 be paid immediately on account of the legal bill. An expensive error for de Souza and Teixeira.

Possession by Default
Wood v Arkley
Bradford County Court, 15 March 2018;

A defence and counterclaim were filed to a possession case sought under Section 21. The tenants submitted that the section 21 notice served by the landlord, was not valid because it had not been served on the 'relevant person' as required by section 213 of the Housing Act 2004. Section 214 provides the remedies for such a breach. The relevant person in this instance was the tenant's father who paid the deposit creating an interest in the deposit at the end of the tenancy. The tenant framed a counterclaim for compensation afforded by section 214, but the landlord omitted to file a defence to the counterclaim. This omission was costly because it enabled the tenant to seek judgement by default for three times the deposit. At a subsequent directions hearing, the tenant's advisers argued there could be no possession because the effect of the default judgement on the counterclaim determined the outcome. In other words, the compensation sought under section 214 could only be awarded if section 213 had been breached. Such a breach meant that the section 21 notice could not be valid. The Judge held "the entry of judgment in default must have determined the failure to comply with the prescribed information obligations. In light of that, the claim for the termination of the claim would necessarily fail and on the basis of my views and judgment on res judicata arguments, the claim stands dismissed."

Note: This case flags up two issues. First, it is better to be over cautious and serve prescribed information on anyone who may have an interest in the deposit. Second relates to court processes; namely never ignore the possible implications of a counterclaim, even if it is admitted. No defence within the time limit opens the door to a County Court Judgement.

Articles by Stephen Fowler

Tenants Look Set to be Given Powers to Sue their Landlords if Property Conditions are Unfit for Human Habitation

The Homes (Fitness) for Human Habitation Bill had its third reading in the House of Commons in October and was passed without division. The House of Lords will now consider the private member's bill, which would apply in England and Wales.

The bill, tabled by Karen Buck MP, would give tenants in the private and social rental sectors the powers to take their land-lords to court if their property conditions are deemed not fit for human habitation at the start of, and throughout, a tenancy.

Private tenants can currently take action against their landlords if their property is in serious disrepair, but not when the property conditions are unfit.

The proposed legislation would change this, by requiring all tenancy agreements to include an implied covenant stating that landlords must ensure that their properties are inhabitable at the start of, and throughout, the tenancy. Tenants would be able to seek legal redress through the courts, without having to first go through their local councils, if landlords fail to do this.

Under the proposed legislation, negligent landlords would be required to remove hazards or pay compensation to their ten-ants. According to Buck, around 750,000 homes in the private rental sector and 250,000 in the social rental sector have cate-gory one hazards.

She insists: "Living in a cold, damp or unsafe home is hell. It damages people's physical and mental well-being. It erodes the income of the poorest households. It impacts on children's education. The most vulnerable tenants are those most at risk of being trapped in sub-standard accommodation and they are often least able to withstand the damage such conditions do."

MPs also discussed making it a legal requirement for lenders to take tenants' rent payment history into account when as-sessing their credit scores.

Article from Landlord News

Stamp Duty Brackets

A Landlord's Guide to the 3% Stamp Duty Surcharge

As of 1st April 2016, buy-to-let landlords and second homebuyers are charged a 3% Stamp Duty surcharge on additional residential dwellings. The additional 3% Stamp Duty charge could represent a significant extra cost to buy-to-let landlords, which may affect the economic viability of future property investment.

What types of property are affected?

Although we might think we know what a residential dwelling is, it is worth noting that this also includes buildings that are in the process of being adapted for use as a dwelling, off-plan purchases and holiday homes. Commercial properties are, however, unaffected by the surcharge.

What are the other conditions?

The additional Stamp Duty charge will generally apply to residential property purchases if:

The purchase price is £40,000 or more.

The purchaser already owns another residential property with a market value of £40,000 or more.

The dwelling being purchased is not replacing the purchaser's only or main residence.

As a result, the surcharge will apply to most residential property acquisitions by landlords. There are some limited exemptions for properties purchased whilst subject to a lease with more than 21 years to run, but these cases are rare.

The rules surrounding the additional charge are complex, but here are some points you should know:

If a property is purchased jointly (by a married couple, for example), the additional Stamp Duty charge will apply to the whole transaction if one of the purchasers, when considered individually, would be caught by the change.

Some instances, when someone might not expect to be caught, can still fall within the rules. For example, if an individual owns one or more rental properties but is now acquiring a residential property as their home, unless they dispose of all properties before the purchase, the 3% surcharge will apply.

Contrary to previous claims, limited companies owning more than 10 properties will be hit by the charge.

Can I reduce the impact of the surcharge?

Certain purchases will fall outside of the rules, but this will mostly be limited to replacements of main residences. This requires disposing of the replaced property, within a period of three years of the acquisition, preventing landlords from hopping between homes to avoid the surcharge.

However, some reliefs are also available:

If more than one property is purchased in a single transaction, multiple dwellings relief may be available, which ensures that the average cost is used when calculating the Stamp Duty charge. Although the 3% surcharge will still apply, this method can significantly reduce the cost.

Sometimes, the potentially lower commercial rates of Stamp Duty can apply. This includes acquisitions of mixed-use properties (such as flats above shops), purchases or more than six individual dwellings in one transaction, and certain linked purchases where a commercial property is purchased alongside a residential dwelling.

Continued on next page...

Stamp Duty Brackets

There are other options available, however, it is always a good idea to seek advice on the best way to structure your property transaction.

Brackets	Buy-to-let and second home Standard rate	Stamp Duty tax bands Buy-to-let/second home rate (1st April 2016)
Up to £125,000	0%	3%
£125,001 - £250,000	2%	5%
£250,001 - £925,000	5%	8%
£925,001 - £1.5m	10%	13%
over £1.5m	12%	15%

For a property worth £300,000.00, standard Stamp Duty would be £5,000.00. A buy-to-let/second home Stamp Duty would be £14,000.00. Remember to seek financial advice if you are unsure of how the tax change will affect you.

Article from Landlord News

£2million of Funding for Local Authorities to Crack Down on Rogue Landlords

Housing Minister Heather Wheeler announced that £2million of funding will be given to Local Authorities in England to help them root out criminal landlords. The Government say that the funding will help to increase action against the minority of landlords who force tenants to live in poor conditions.

Councils already have the following powers to enable them to root out criminal landlords;
Civil Penalties; are an alternative to prosecution for a variety of offences under the Housing Act 2004. Local authorities can fine the landlord as an alternative to bringing a prosecution against them. Landlords can be fined up to £30,000 per Civil penalty, it can be issued to landlords for a range of reasons, including failure to comply with an improvement notice and offences in relation to the licensing of a House in Multiple Occupation (HMO)
Banning orders; were introduced in April 2018. Landlords who are convicted of offences, may now also be banned from renting out accommodation for a period of time. This could range from 12 months to life, with those landlords who receive a banning order being recorded on a database. If a landlord ignores a banning order, they will face criminal sanctions, from six months in prison to an unlimited fine. Offences that could lead to a banning order include immigration offences, a range of fraud offences as well as housing offences such as overcrowding.

Rent Repayment Orders; a means by which a tenant or local authority can seek up to 12 months of rent, Housing Benefit, or Universal Credit repaid, usually in addition to other fines. This method is available to the local authority or tenants, where they can prove beyond reasonable doubt that the landlord is guilty of one of the qualifying offences. It is limited to money paid by the body or person making the application.

Rogue landlord database; launched in April 2018. This nationwide database is separate to the rogue landlord database which has been introduced in all 33 boroughs of London.
The new funding will help to support a range of council run projects including;
Building relationships with external organisations such as the emergency services, legal services and local housing advocates.

Councils to support tenants to take action against poor standards, for example through rent repayment orders, and develop digital solutions which will help officers to report back and make decisions quicker.

A sharing of best practice of enforcement action and examples of innovative approaches that are self-sustaining and can be easily adapted to other parts of the country.

Article abridged from RLA

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Richard is with Greg Latchams on 0117 9069424 and will support initial telephone calls to discuss your problems

Rory Smith, Enigma Solicitors

Rory Smith is a highly experienced specialist in a wide range of disputes and their resolution. Rory can also recommend to you other law firms in Plymouth who will all offer free initial advice to SWLA members in other specialist areas. Contact Rory on 01752 600567 or by email at rls@enigmalaw.com Enigma is located 5 minutes away from SWLA's office at Farrer Court , 77 North Hill PL4 8HB The office is open 8:50 a.m. until 5:00 p.m. weekdays.

Did you know that SWLA have a trade listing of local businesses? Head to the SWLA website 'Trade Directory' for all of your landlord needs from Gas Safety Checks to Building Services

SWLA

South West Landlords Association

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Or visit our office in Dale Road, it is open week days from 10am to 3pm