

# 1. Introduction

This document provides guidance and advice to landlords of domestic rented properties about the minimum standards required to let domestic property under the [Homes \(Fitness for Human Habitation\) Act 2018](#) ('the Act').

The Act came into force on 20 March 2019. It is designed to ensure that all rented accommodation is fit for human habitation and to strengthen tenants' means of redress against the minority of landlords who do not fulfil their legal obligations to keep their properties safe.

**There are no new obligations for landlords under this Act;** the legislation requires landlords to ensure that they are meeting their existing responsibilities with regards to property standards and safety.

Under the Act, the Landlord and Tenant Act 1985 is amended to require all landlords (private and social) to ensure that their properties, including any common parts of the building, are fit for human habitation at the beginning of the tenancy and throughout. The Act states that there is an implied agreement between the tenant and landlord at the beginning of the tenancy that the property will be fit for human habitation.

The government wants to support the majority of good landlords who provide decent and well-maintained homes. Landlords who do not maintain safe properties prevent the operation of an effective and competitive rental market where all landlords operate on an equal footing. This Act provides an additional means for tenants to seek redress by giving them the power to hold their landlord to account without having to rely on their local authority to do so.

The government expects standards to improve as tenants will be empowered to take action against their landlord where they fail to adequately maintain their property. This will level the playing field for the vast majority of good landlords who are already maintaining homes fit for human habitation without serious hazards, by ensuring that they are not undercut by landlords who knowingly and persistently flout their responsibilities.

## 2. Overview of the Act

The Act applies to the social and private rented sectors and makes it clear that landlords must ensure that their property, including any common parts of the building, is fit for human habitation at the beginning of the tenancy and throughout.

To achieve that, landlords will need to make sure that their property is free of hazards which are so serious that the dwelling is not reasonably suitable for occupation in that condition. Most landlords take their responsibility seriously and do this already.

Where a landlord fails to do so, the tenant has the right to take action in the courts for breach of contract on the grounds that the property is unfit for human habitation. The remedies available to the tenant are an order by the court requiring the landlord to take action to reduce or remove the hazard, and / or damages to compensate them for having to live in a property which was not fit for human habitation.

### Who will it apply to?

The Act will apply to:

- tenancies shorter than 7 years that are granted on or after 20 March 2019 (tenancies longer than 7 years that can be terminated by the landlord before the expiry of 7 years shall be treated as if the tenancy was for less than 7 years)
- new secure, assured and introductory tenancies (on or after 20 March 2019)
- tenancies renewed for a fixed term (on or after 20 March 2019)
- from the 20 March 2020 the Act will apply to all periodic tenancies. This is all tenancies that started before 20 March 2019; in this instance landlords will have 12 months from the commencement date of the Act before the requirement comes into force

## What exceptions are there?

The landlord will not be required to remedy unfitness when:

- the problem is caused by tenant behaviour
- the problem is caused by events like fires, storms and floods which are completely beyond the landlord's control (sometimes called 'acts of God')
- the problem is caused by the tenants' own possessions
- the landlord hasn't been able to get consent e.g. planning permission, permission from freeholders etc. There must be evidence of reasonable efforts to gain permission
- the tenant is not an individual, e.g. local authorities, national parks, housing associations, educational institutions

The Act does not cover people who have 'licences to occupy', instead of tenancy agreements. This may include lodgers (people who live with their landlord) some people who live in temporary accommodation, and some, but not all, property guardians.

## When can tenants start to use the Act?

Once the Act came into force on 20 March 2019, landlords with properties let on existing tenancies had 12 months to comply. For any new tenancies that start on or after 20 March 2019, the Act will apply immediately.

## 3. Complying with the Act

If a landlord fails to comply with the Act, tenants may have the right to take court action for breach of contract.

If the court decides that the landlord has not provided their tenant with a home that is fit for habitation, then the court can:

- make the landlord pay compensation to their tenant
- make the landlord do the necessary works to improve their property

If the tenant seeks redress through the courts, this does not stop their local authority from using its enforcement powers. Local authorities have a range of powers which allow them to tackle poor and illegal practices by landlords and letting agents, including when landlords do not carry out necessary works that have been brought to their attention. If you are a social housing landlord then the [Regulator of Social Housing](#) and the [Housing Ombudsman](#) will also have a role to play.

See comprehensive [guidance on your responsibilities as a landlord](#).

## What are the criteria for ‘Fitness for Human Habitation’?

**The courts will decide whether a property is fit for human habitation** by considering the matters set out in section 10 of the Landlord and Tenant Act 1985. These are whether:

- the building has been neglected and is in a bad condition
- the building is unstable
- there’s a serious problem with damp
- it has an unsafe layout
- there’s not enough natural light
- there’s not enough ventilation
- there is a problem with the supply of hot and cold water
- there are problems with the drainage or the lavatories
- it’s difficult to prepare and cook food or wash up
- or any of the 29 hazards set out in the [Housing Health and Safety \(England\) Regulations 2005](#)

It is for the courts to decide whether the dwelling is fit for human habitation. A Housing Health and Safety Rating System (HHSRS) assessment is not necessary. However, a landlord might choose to carry out an assessment if they want to establish whether a serious health and safety hazard is present. Landlords of social housing may also have regard to the [Decent Homes Standard](#).

The court may also make a decision on unfitness without expert advice. For example, if there were no plumbed sanitary conveniences

in the property an expert opinion would not be necessary as the property would evidently be unfit.

## **How long do I have to fix the problem?**

The landlord is considered responsible from when he or she is made aware of the hazard by the tenant. However, any hazard located in common parts of a block of flats or a House in Multiple Occupation (HMO) would make the landlord immediately liable.

The landlord will then have a reasonable amount of time to deal with this hazard, which will depend on the circumstances. Once the landlord has been made aware of a hazard, and is not actively attempting to remedy this hazard, the tenant would be able to take their landlord to court. It is for the court to decide whether the landlord dealt with the hazard in a reasonable time.

**Landlords should therefore rectify any damages that they are responsible for as soon as possible. If a tenant tells you about a problem that is in a common part of a building, then you are strongly advised to bring it to the freeholder's attention as soon as possible.**

## **What happens if my tenant will not let me in?**

In the case of repairing a property to make it fit for habitation, the landlord should give at least 24 hours' written notice to the tenants and the visit should be within 'reasonable' hours. For most people, this means not too late at night, and not too early in the morning but it may also depend on other factors that are unique to the tenant, for example caring responsibilities.

In an emergency the landlord may be entitled to enter the property on shorter notice. If their tenant will not give them access, landlords should seek legal advice and keep a record of all attempts they have made to contact the tenant.

## 4. Penalties: what happens if I do not comply?

If the courts find that a property is not fit for human habitation, then they may require one or both of the following:

- compulsory improvement to the condition of the property
- compensation to the tenant

### Tenant compensation

Currently there are no specified limits on the level of compensation that can be awarded, and this is at the discretion of the judge having considered the evidence.

Factors which will be taken into account include the perceived harm that has been inflicted on the tenant, the longevity of the issue and the severity of the unfitness in the dwelling. You may also be ordered to pay the tenant's legal costs.

### Local authorities' powers and 'retaliatory eviction'

As set out above, local authorities will still be able to use their enforcement powers if a tenant in the private rented sector seeks redress under the Act, apart from where the local authority is also the landlord.

A landlord cannot serve a [section 21 'no fault' eviction notice](#) to a tenant with an assured shorthold tenancy unless they have complied with certain legal responsibilities. Social housing landlords cannot make use of a section 21 'no fault' eviction notice as this only applies to assured shorthold tenancies.

Existing protections against retaliatory eviction provided under the Deregulation Act 2015 will still be available to tenants if local authorities have taken certain actions under the Housing Act 2004. Therefore, there may be circumstances where local authorities consider it necessary to take enforcement action under the Housing Act 2004 even though tenants are also seeking redress under the Act.

This will protect tenants against unfair eviction where they have raised a legitimate complaint about the condition of their home.

## **What will happen if I win?**

If you do win the case in court, your tenant might have to pay some costs. For more information you might want to consider taking legal advice.

**If you are a private sector landlord and require more information on your general obligations as a landlord, please see the [How to let guide](#).**