

CORONAVIRUS ACT 2020 (ENGLAND AND WALES)

RESIDENTIAL TENANCIES – PROTECTION FROM EVICTION

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WHAT IS THE CHANGE?

In this time of crisis, the Government is seeking to ensure that people cannot be evicted from their homes in the coming months.

The Government has extended tenant eviction notice periods to a minimum of 3 months.

The court service has also suspended all ongoing housing possession action for 90 days.

WHEN WILL THIS APPLY?

The 3 month minimum period for eviction notices applies from 26 March.

All housing possession actions are suspended from 27 March.

WHICH RESIDENTIAL TENANCIES ARE AFFECTED?

There are many that might be affected by the notice period extension, but the most common are:

- Rent Act tenancies (Rent Act 1977);
- Assured tenancies (Housing Act 1988); and
- Assured shorthold tenancies (Housing Act 1988) (most residential tenants hold these sorts of tenancies).

The suspension of housing possession actions will protect all private and social renters, those with mortgages and those with licences covered by the Protection from Eviction Act 1977. It will not cover lodgers and some people whose accommodation is provided as part of their job.

WHAT ARE THE EFFECTS?

Any notices that are served to terminate a residential tenancy must now give at least 3 months' notice. Updated prescribed notices are now available.

Although notices to quit/terminate any of the tenancies can still be served, possession proceedings cannot be commenced until expiry of the notice period (subject to any extension).

Housing possession court cases are suspended so they cannot progress to the eviction stage. It appears that all possession claims have been suspended as an unintended result of this legislation including squatter actions. In the coming days/weeks no doubt the judiciary will find a way to navigate through this effect to enable such cases to be dealt with.

HOW LONG WILL THESE CHANGES APPLY FOR?

The 3 month minimum notice period rule will apply until 30 September 2020. The Government has the power to extend this end point, and the 3 month notice period.

Residential evictions are suspended for 90 days initially (so cannot take place before 26 June), with scope to extend if needed.

WHAT ABOUT POSSESSION PROCEEDINGS THAT HAD ALREADY COMMENCED?

All housing possession actions are suspended for 90 days. This suggests that, whatever stage the case is at now, it will effectively be 'paused' and any hearings will be postponed.

WHAT IF I HAVE A POSSESSION ORDER THAT IS AWAITING ENFORCEMENT?

The enforcement of the order will be suspended for at least 90 days. This means it cannot be enforced until 26 June at the earliest, and this date may well be extended.

DOES THE COURT HAVE ANY DISCRETION TO DISPENSE WITH THESE RESTRICTIONS?

There may be scope to seek the court's discretion where it would be "just and equitable" to depart from the requirement to extend the notice period. Circumstances would no doubt need to be exceptional.

Likewise, it seems unlikely the court would lift the blanket suspension of housing possession actions save for exceptional cases.

WHAT DOES THIS MEAN?

- Landlords will need to serve at least 3 months' notice to terminate residential tenancies.
- Tenants, and most other residential occupiers, cannot be evicted until after 25 June.
- Tenants are still liable for their rent.
- Landlords are still obliged to make sure properties meet the required legal standards – urgent, essential health and safety repairs should be carried out.