Homes (Fitness for Human Habitation) Act 2018

2018 CHAPTER 34

An Act to amend the Landlord and Tenant Act 1985 to require that residential rented accommodation is provided and maintained in a state of fitness for human habitation; and for connected purposes. [20th December 2018]

BE IT ENACTED by the Queen's most Excellent Majesty, by and with the advice and consent of the Lords Spiritual and Temporal, and Commons, in this present Parliament assembled, and by the authority of the same, as follows:—

1 Fitness for human habitation

(1) The Landlord and Tenant Act 1985 is amended in accordance with subsections (2) to (5).

(2) In section 8 (implied terms as to fitness for human habitation)—

(a) in the heading, after "habitation" insert " : Wales ";

(b) in subsection (1), after "house", in the first place it occurs, insert " in Wales ".

(3) After section 9 (application of section 8 to certain houses occupied by agricultural workers) insert—

"**9A Fitness for human habitation of dwellings in England**

(1) In a lease to which this section applies of a dwelling in England (see section 9B), there is implied a covenant by the lessor that the dwelling—

(a) is fit for human habitation at the time the lease is granted or otherwise created or, if later, at the beginning of the term of the lease, and

(b) will remain fit for human habitation during the term of the lease.

(2) The implied covenant is not to be taken as requiring the lessor—

Changes to legislation: *There are currently no known outstanding effects for the Homes (Fitness for Human Habitation) Act 2018. (See end of Document for details)*

(a) to carry out works or repairs for which the lessee is liable by virtue of—

(i) the duty of the lessee to use the premises in a tenant-like manner, or

(ii) an express covenant of the lessee of substantially the same effect as that duty;

(b) to rebuild or reinstate the dwelling in the case of destruction or damage by fire, storm, flood or other inevitable accident;

(c) to keep in repair or maintain anything which the lessee is entitled to remove from the dwelling;

(d) to carry out works or repairs which, if carried out, would put the lessor in breach of any obligation imposed by any enactment (whenever passed or made);

(e) to carry out works or repairs requiring the consent of a superior landlord or other third party in circumstances where consent has not been obtained following reasonable endeavours to obtain it.

(3) The implied covenant is also not to be taken as imposing on the lessor any liability in respect of the dwelling being unfit for human habitation if the unfitness is wholly or mainly attributable to—

(a) the lessee's own breach of covenant, or

(b) disrepair which the lessor is not obliged to make good because of an exclusion or modification under section 12 (power of county court to authorise exclusions or modifications in leases in respect of repairing obligations under section 11).

(4) Any provision of a lease or of any agreement relating to a lease (whether made before or after the grant or creation of the lease) is void to the extent that it purports—

(a) to exclude or limit the obligations of the lessor under the implied covenant, or

(b) to authorise any forfeiture or impose on the lessee any penalty, disability or obligation in the event of the lessee enforcing or relying upon those obligations.

(5) Where in any proceedings before a court it is alleged that a lessor is in breach of an obligation under the implied covenant, the court may order specific performance of the obligation (regardless of any equitable rule restricting the scope of that remedy).

(6) Where a lease to which this section applies of a dwelling in England forms part only of a building, the implied covenant has effect as if the reference to the dwelling in subsection (1) included a reference to any common parts of the building in which the lessor has an estate or interest.

(7) In a lease to which this section applies of a dwelling in England, there is also implied a covenant by the lessee that the lessor, or a person authorised in writing by the lessor, may enter the dwelling for the purpose of viewing its condition and state of repair.

(8) The covenant implied by subsection (7) requires entry to the dwelling to be permitted—

(a) only at reasonable times of the day, and

(b) only if at least 24 hours' notice in writing has been given to the occupier of the dwelling.

(9) In this section—

"common parts" has the meaning given by section 60(1) of the Landlord and Tenant Act 1987;

"lease" does not include a mortgage term;

"lessee" means the person for the time being entitled to the term of a lease;

"lessor" means the person for the time being entitled to the reversion expectant on a lease.

9B Leases to which section 9A applies

(1) Section 9A applies to a lease under which a dwelling is let wholly or mainly for human habitation if either of the following applies—

(a) the lease is for a term of less than 7 years, or

(b) the lease is of a kind mentioned in subsection (1A) or (1AB) of section 13 (leases to which section 11 applies: secure, assured or introductory tenancies for fixed term of 7 years or more).

This is subject as follows.

(2) Section 9A does not apply to any lease of a kind mentioned in section 14 (exceptions for leases to which section 11 applies).

(3) Except as mentioned in subsections (4), (5) and (6), section 9A does not apply to a lease granted—

(a) before the commencement date, or

(b) on or after that date in pursuance of an agreement entered into, or an order of a court made, before the commencement date.

(4) Section 9A applies to a periodic or secure tenancy that is in existence on the commencement date, but in the case of any such tenancy the covenant implied by that section has effect in the following way—

(a) subsection (1)(a) of that section has effect as if the reference to the later of the times there mentioned were a reference to the time that begins at the end of the period of 12 months beginning with the commencement date, and

(b) subsection (1)(b) of that section has effect only in respect of times falling after the end of that 12 month period.

(5) Section 9A applies to a periodic or secure tenancy that comes into existence after the commencement date on expiry of a term of a lease granted before that date.

(6) Section 9A applies to a lease for a fixed term which—

(a) is granted or renewed before the commencement date, and

(b) is renewed for a further fixed term on or after that date,

and for this purpose the renewal on or after the commencement date is to be treated as a grant of the lease on or after that date.

(7) For the purposes of subsection (1) it is immaterial—

(a) whether the dwelling is to be occupied under the lease or under an inferior lease derived out of it, or

(b) that the lease also demises other property (which may consist of or include one or more other dwellings).

(8) In determining for the purposes of subsection (1)(a) whether a lease is for a term of less than 7 years—

(a) any part of the term falling before the grant or creation is to be ignored and the lease is to be treated as a lease for a term commencing with the grant or creation;

(b) a lease which is determinable at the option of the lessor before the expiry of 7 years from the commencement of the term is to be treated as a lease for a term of less than 7 years;

(c) a lease (other than one to which paragraph (b) applies) is not to be treated as a lease for a term of less than 7 years if it confers on the lessee an option for renewal for a term which, together with the original term, amounts to 7 years or more.

(9) In this section—

"the commencement date" means the date on which the Homes (Fitness for Human Habitation) Act 2018 comes into force;

"lease", "lessee" and "lessor" have the same meanings as in section 9A;

"secure tenancy" has the meaning given by section 79 of the Housing Act 1985.

9C Application of section 9A to certain dwellings occupied by agricultural workers

(1) This section applies where under a contract of employment of a worker employed in agriculture—

(a) the provision of a dwelling for the worker's occupation forms part of the worker's remuneration, and

(b) the provisions of section 9A (implied term as to fitness for human habitation of dwellings in England) are inapplicable by reason only of the dwelling not being let to the worker.

(2) There is implied as part of the contract of employment (in spite of any stipulation to the contrary) a term having the same effect as the covenant that would be implied by section 9A if the dwelling were let by a lease to which that section applies.

(3) The provisions of section 9A apply accordingly—

(a) with the substitution of "employer" and "employee" for "lessor" and "lessee", and

(b) with such other modifications as may be necessary.

(4) This section does not affect—

(a) any obligation of a person other than the employer to repair a dwelling to which the covenant implied by section 9A applies by virtue of this section, or

(b) any remedy for enforcing such an obligation."

(4) In section 10 (fitness for human habitation)—

(a) the existing text becomes subsection (1);

(b) in that subsection—

(i) after "house", in both places where it occurs, insert " or dwelling ";

(ii) after "facilities for preparation and cooking of food and for the disposal of waste water;" insert— " in relation to a dwelling in England, any prescribed hazard; ";

(c) after that subsection insert—

"(2) In subsection (1) "prescribed hazard" means any matter or circumstance amounting to a hazard for the time being prescribed in regulations made by the Secretary of State under section 2 of the Housing Act 2004.

(3) The definition of "hazard" in section 2(1) of the Housing Act 2004 applies for the purposes of subsection (2) as though the reference to a potential occupier were omitted."

(5) In section 39 (index of defined expressions), after the entry in the list for "lease, lessee and lessor (generally)" insert—

"(in the provisions relating to fitness for human habitation of dwellings in England)	section 9A(9)".

(6) In section 302 of the Housing Act 1985 (management and repair of houses acquired under section 300 or retained under section 301), in paragraph (c)—

(a) for "section 8" substitute " sections 8 and 9A ", and

(b) for "does" substitute " do ".

2 Extent, commencement and short title

(1) This Act extends to England and Wales.

(2) This Act comes into force at the end of the period of three months beginning with the day on which it is passed.

(3) This Act may be cited as the Homes (Fitness for Human Habitation) Act 2018.

Changes to legislation:
There are currently no known outstanding effects for the Homes (Fitness for Human Habitation) Act 2018.