

DEREGULATION ACT 2015

EXPLANATORY NOTES

COMMENTARY ON SECTIONS

Sections 33 to 41: retaliatory evictions

Overview

180. The sections provide protection for assured shorthold tenants in the private rented sector against retaliatory eviction, where such tenants are suffering from poor or unsafe property conditions. This is done by providing that, where a relevant notice is served on the landlord in relation to the dwelling, the landlord is prevented from evicting a tenant or tenants by giving a notice under section 21 of the Housing Act 1988 for six months, from the date of service of the relevant notice. For the purposes of these sections, a relevant notice is defined as an improvement notice served under section 11 or section 12 of the Housing Act 2004, or a notice of emergency remedial action served under section 40(7) of the Housing Act 2004. Section 21 of the Housing Act 1988 currently provides a ‘no-fault’ eviction procedure in the case of assured shorthold tenancies whereby, provided the landlord gives tenants the prescribed amount of notice, they do not need to rely on any grounds for eviction.
181. The sections also provide the power for the Secretary of State to prescribe legal requirements, so that if a landlord of an assured shorthold tenant is in breach of those requirements, the landlord is prevented from serving a section 21 notice. The Secretary of State is also provided with the power to prescribe certain information that a landlord must provide to their tenant(s), and a breach of this requirement would prevent the landlord from being able to serve a section 21 notice. Finally, the sections make changes to the procedure under section 21 of the Housing Act 1988, by introducing the power to prescribe the form of section 21 notices, by removing the requirement for notices served under section 21(4) of the Housing Act 1988 to end on the last day of a period of the tenancy and by introducing time restrictions in relation to the giving of section 21 notices and the time period for bringing possession proceedings, following the service of a section 21 notice.
182. The policy rationale for the changes is to prevent tenants from feeling unable to complain about poor property conditions because they fear eviction. The government also intends that the sections should encourage landlords to keep their property in a decent condition and to comply with all legal obligations placed upon them, in order not to lose their right to rely on section 21. The changes that are made to the section 21 procedure aim to make the eviction process more straightforward for both landlords and tenants. The sections do not make any changes to the eviction procedure contained in section 8 of the Housing Act 1988, which provides for the eviction of tenants where there are grounds to do so, for example because a tenant has not been paying rent or has been engaging in anti-social behaviour.
183. The sections form part of the law of England and Wales. However, given that housing matters are now devolved to Wales, the amendments made by the sections will apply to England only.

*These notes refer to the Deregulation Act 2015 (c.20)
which received Royal Assent on 26 March 2015*

184. The sections come into force on a day to be appointed by the Secretary of State in a commencement order.
185. The remainder of the notes for this group of sections discusses each new section in more detail.