



Housing and Planning Act 2016

2016 CHAPTER 22

PART 2

ROGUE LANDLORDS AND PROPERTY AGENTS IN ENGLAND

CHAPTER 4

RENT REPAYMENT ORDERS

Rent repayment orders: introduction

40 Introduction and key definitions

- (1) This Chapter confers power on the First-tier Tribunal to make a rent repayment order where a landlord has committed an offence to which this Chapter applies.
- (2) A rent repayment order is an order requiring the landlord under a tenancy of housing in England to—
 - (a) repay an amount of rent paid by a tenant, or
 - (b) pay a local housing authority an amount in respect of a relevant award of universal credit paid (to any person) in respect of rent under the tenancy.
- (3) A reference to “an offence to which this Chapter applies” is to an offence, of a description specified in the table, that is committed by a landlord in relation to housing in England let by that landlord.

<i>Act</i>	<i>section</i>	<i>general description of offence</i>
1 Criminal Law Act 1977	section 6(1)	violence for securing entry
2 Protection Eviction Act 1977	from section 1(2), (3) or (3A)	eviction or harassment of occupiers

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3	Housing Act 2004	section 30(1)	failure to comply with improvement notice
4		section 32(1)	failure to comply with prohibition order etc
5		section 72(1)	control or management of unlicensed HMO
6		section 95(1)	control or management of unlicensed house
7	This Act	section 21	breach of banning order

- (4) For the purposes of subsection (3), an offence under section 30(1) or 32(1) of the Housing Act 2004 is committed in relation to housing in England let by a landlord only if the improvement notice or prohibition order mentioned in that section was given in respect of a hazard on the premises let by the landlord (as opposed, for example, to common parts).

Commencement Information

- I1** [S. 40](#) in force at 6.4.2017 for specified purposes by [S.I. 2017/281](#), [reg. 4\(a\)](#) (with [reg. 5](#))
I2 [S. 40](#) in force at 6.4.2018 in so far as not already in force by [S.I. 2018/393](#), [reg. 2\(a\)](#)

Application for rent repayment order

41 Application for rent repayment order

- (1) A tenant or a local housing authority may apply to the First-tier Tribunal for a rent repayment order against a person who has committed an offence to which this Chapter applies.
- (2) A tenant may apply for a rent repayment order only if —
 - (a) the offence relates to housing that, at the time of the offence, was let to the tenant, and
 - (b) the offence was committed in the period of 12 months ending with the day on which the application is made.
- (3) A local housing authority may apply for a rent repayment order only if—
 - (a) the offence relates to housing in the authority's area, and
 - (b) the authority has complied with section 42.
- (4) In deciding whether to apply for a rent repayment order a local housing authority must have regard to any guidance given by the Secretary of State.

Commencement Information

- I3** [S. 41](#) in force at 6.4.2017 for specified purposes by [S.I. 2017/281](#), [reg. 4\(a\)](#) (with [reg. 5](#))
I4 [S. 41](#) in force at 6.4.2018 in so far as not already in force by [S.I. 2018/393](#), [reg. 2\(a\)](#)

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42 Notice of intended proceedings

- (1) Before applying for a rent repayment order a local housing authority must give the landlord a notice of intended proceedings.
- (2) A notice of intended proceedings must—
 - (a) inform the landlord that the authority is proposing to apply for a rent repayment order and explain why,
 - (b) state the amount that the authority seeks to recover, and
 - (c) invite the landlord to make representations within a period specified in the notice of not less than 28 days (“the notice period”).
- (3) The authority must consider any representations made during the notice period.
- (4) The authority must wait until the notice period has ended before applying for a rent repayment order.
- (5) A notice of intended proceedings may not be given after the end of the period of 12 months beginning with the day on which the landlord committed the offence to which it relates.

Commencement Information

I5 [S. 42](#) in force at 6.4.2017 for specified purposes by [S.I. 2017/281](#), [reg. 4\(a\)](#)

I6 [S. 42](#) in force at 6.4.2018 in so far as not already in force by [S.I. 2018/393](#), [reg. 2\(a\)](#)

Making of rent repayment order

43 Making of rent repayment order

- (1) The First-tier Tribunal may make a rent repayment order if satisfied, beyond reasonable doubt, that a landlord has committed an offence to which this Chapter applies (whether or not the landlord has been convicted).
- (2) A rent repayment order under this section may be made only on an application under section 41.
- (3) The amount of a rent repayment order under this section is to be determined in accordance with—
 - (a) section 44 (where the application is made by a tenant);
 - (b) section 45 (where the application is made by a local housing authority);
 - (c) section 46 (in certain cases where the landlord has been convicted etc).

Commencement Information

I7 [S. 43](#) in force at 6.4.2017 for specified purposes by [S.I. 2017/281](#), [reg. 4\(a\)](#) (with [reg. 5](#))

I8 [S. 43](#) in force at 6.4.2018 in so far as not already in force by [S.I. 2018/393](#), [reg. 2\(a\)](#)

44 Amount of order: tenants

- (1) Where the First-tier Tribunal decides to make a rent repayment order under section 43 in favour of a tenant, the amount is to be determined in accordance with this section.

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- (2) The amount must relate to rent paid during the period mentioned in the table.

<i>If the order is made on the ground that the landlord has committed</i>	<i>the amount must relate to rent paid by the tenant in respect of</i>
an offence mentioned in row 1 or 2 of the table in section 40(3)	the period of 12 months ending with the date of the offence
an offence mentioned in row 3, 4, 5, 6 or 7 of the table in section 40(3)	a period, not exceeding 12 months, during which the landlord was committing the offence

- (3) The amount that the landlord may be required to repay in respect of a period must not exceed—
- (a) the rent paid in respect of that period, less
 - (b) any relevant award of universal credit paid (to any person) in respect of rent under the tenancy during that period.
- (4) In determining the amount the tribunal must, in particular, take into account—
- (a) the conduct of the landlord and the tenant,
 - (b) the financial circumstances of the landlord, and
 - (c) whether the landlord has at any time been convicted of an offence to which this Chapter applies.

Commencement Information

I9 [S. 44](#) in force at 6.4.2017 for specified purposes by [S.I. 2017/281](#), [reg. 4\(a\)](#)

I10 [S. 44](#) in force at 6.4.2018 in so far as not already in force by [S.I. 2018/393](#), [reg. 2\(a\)](#)

45 Amount of order: local housing authorities

- (1) Where the First-tier Tribunal decides to make a rent repayment order under section 43 in favour of a local housing authority, the amount is to be determined in accordance with this section.
- (2) The amount must relate to universal credit paid during the period mentioned in the table.

<i>In the order is made on the ground that the landlord has committed</i>	<i>the amount must relate to universal credit paid in respect of</i>
an offence mentioned in row 1 or 2 of the table in section 40(3)	the period of 12 months ending with the date of the offence
an offence mentioned in row 3, 4, 5, 6 or 7 of the table in section 40(3)	a period, not exceeding 12 months, during which the landlord was committing the offence

- (3) The amount that the landlord may be required to repay in respect of a period must not exceed the amount of universal credit that the landlord received (directly or indirectly) in respect of rent under the tenancy for that period.
- (4) In determining the amount the tribunal must, in particular, take into account—

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- (a) the conduct of the landlord,
- (b) the financial circumstances of the landlord, and
- (c) whether the landlord has at any time been convicted of an offence to which this Chapter applies.

Commencement Information

- I11** [S. 45](#) in force at 6.4.2017 for specified purposes by [S.I. 2017/281](#), [reg. 4\(a\)](#)
- I12** [S. 45](#) in force at 6.4.2018 in so far as not already in force by [S.I. 2018/393](#), [reg. 2\(a\)](#)

46 Amount of order following conviction

- (1) Where the First-tier Tribunal decides to make a rent repayment order under section 43 and both of the following conditions are met, the amount is to be the maximum that the tribunal has power to order in accordance with section 44 or 45 (but disregarding subsection (4) of those sections).
- (2) Condition 1 is that the order—
 - (a) is made against a landlord who has been convicted of the offence, or
 - (b) is made against a landlord who has received a financial penalty in respect of the offence and is made at a time when there is no prospect of appeal against that penalty.
- (3) Condition 2 is that the order is made—
 - (a) in favour of a tenant on the ground that the landlord has committed an offence mentioned in row 1, 2, 3, 4 or 7 of the table in section 40(3), or
 - (b) in favour of a local housing authority.
- (4) For the purposes of subsection (2)(b) there is “no prospect of appeal”, in relation to a penalty, when the period for appealing the penalty has expired and any appeal has been finally determined or withdrawn.
- (5) Nothing in this section requires the payment of any amount that, by reason of exceptional circumstances, the tribunal considers it would be unreasonable to require the landlord to pay.

Commencement Information

- I13** [S. 46](#) in force at 6.4.2017 for specified purposes by [S.I. 2017/281](#), [reg. 4\(a\)](#)
- I14** [S. 46](#) in force at 6.4.2018 in so far as not already in force by [S.I. 2018/393](#), [reg. 2\(a\)](#)

Enforcement of rent repayment order

47 Enforcement of rent repayment orders

- (1) An amount payable to a tenant or local housing authority under a rent repayment order is recoverable as a debt.
- (2) An amount payable to a local housing authority under a rent repayment order does not, when recovered by the authority, constitute an amount of universal credit recovered by the authority.

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- (3) The Secretary of State may by regulations make provision about how local housing authorities are to deal with amounts recovered under rent repayment orders.

Commencement Information

- I15** S. 47(1)(2) in force at 6.4.2017 by [S.I. 2017/281](#), [reg. 4\(c\)](#)
I16 S. 47(3) in force at 10.3.2017 by [S.I. 2017/281](#), [reg. 3\(a\)](#)

Local housing authority functions

48 Duty to consider applying for rent repayment orders

If a local housing authority becomes aware that a person has been convicted of an offence to which this Chapter applies in relation to housing in its area, the authority must consider applying for a rent repayment order.

Commencement Information

- I17** S. 48 in force at 6.4.2017 for specified purposes by [S.I. 2017/281](#), [reg. 4\(b\)](#) (with [reg. 5](#))
I18 S. 48 in force at 6.4.2018 in so far as not already in force by [S.I. 2018/393](#), [reg. 2\(a\)](#)

49 Helping tenants apply for rent repayment orders

- (1) A local housing authority in England may help a tenant to apply for a rent repayment order.
- (2) A local housing authority may, for example, help the tenant to apply by conducting proceedings or by giving advice to the tenant.

Commencement Information

- I19** S. 49 in force at 6.4.2017 by [S.I. 2017/281](#), [reg. 4\(c\)](#)

Amendments etc and interpretation

50 Rent repayment orders: consequential amendments

- (1) The Housing Act 2004 is amended as follows.
- (2) In section 73 (other consequences of operating unlicensed HMOs: rent repayment orders)—
- (a) in subsection (4), after “section 74” insert “ (in the case of an HMO in Wales) or in accordance with Chapter 4 of Part 2 of the Housing and Planning Act 2016 (in the case of an HMO in England) ”;
 - (b) in subsection (5)(a), after “HMO” insert “ in Wales ”.
- (3) In section 96 (other consequences of operating unlicensed houses: rent repayment orders)—

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- (a) in subsection (4), after “section 97” insert “ (in the case of a house in Wales) or in accordance with Chapter 4 of Part 2 of the Housing and Planning Act 2016 (in the case of a house in England) ”;
- (b) in subsection (5)(a), after “house” insert “ in Wales ”.

Commencement Information

I20 S. 50 in force at 6.4.2017 by S.I. 2017/281, reg. 4(c)

51 Housing benefit: inclusion pending abolition

- (1) In this Chapter a reference to universal credit or a relevant award of universal credit includes housing benefit under Part 7 of the Social Security Contributions and Benefits Act 1992.
- (2) Where a local authority applies for a rent repayment order in relation to housing benefit, a reference in this Chapter to “rent” includes any payment in respect of which housing benefit may be paid.

Commencement Information

I21 S. 51 in force at 6.4.2017 by S.I. 2017/281, reg. 4(c)

52 Interpretation of Chapter

- (1) In this Chapter—
 - “offence to which this Chapter applies” has the meaning given by section 40;
 - “relevant award of universal credit” means an award of universal credit the calculation of which included an amount under section 11 of the Welfare Reform Act 2012;
 - “rent” includes any payment in respect of which an amount under section 11 of the Welfare Reform Act 2012 may be included in the calculation of an award of universal credit;
 - “rent repayment order” has the meaning given by section 40.
- (2) For the purposes of this Chapter an amount that a tenant does not pay as rent but which is offset against rent is to be treated as having been paid as rent.

Commencement Information

I22 S. 52 in force at 6.4.2017 by S.I. 2017/281, reg. 4(c)

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Changes and effects yet to be applied to the whole Act associated Parts and Chapters:

Whole provisions yet to be inserted into this Act (including any effects on those provisions):

- s. 172(1)(a) words renumbered as s. 172(1)(a) by [2017 c. 20 s. 26\(8\)\(a\)\(i\)](#)
- s. 172(1)(b) inserted by [2017 c. 20 s. 26\(8\)\(a\)\(ii\)](#)