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RESIDENTIAL TENANCIES

Provisions applying to residential lettings

Renting rather than buying a property is now viewed by many as a more affordable and practical option. It is important that landlords are aware of their obligations before they start letting out their property.

Tenancy Agreement

Assured Shorthold Tenancy

An **Assured Shorthold Tenancy** (AST) is the tenancy agreement most frequently used by landlords.

All new tenancies since 28 February 1997 are automatically Assured Shortholds, unless the agreement has specified otherwise.

AST agreements are typically granted for six or twelve month periods but can be agreed for shorter or longer terms. The tenant is entitled to remain in the property for the fixed period and will be contractually bound to pay rent for the full period. If a landlord requires possession at the end of the fixed term, he must serve not less than two months' written notice on the tenant.

A landlord can only terminate the tenancy within the initial fixed period for such things as rent arrears, breach of tenancy and/or conduct which causes a nuisance.

Under an AST the landlord will be entitled to apply to the Court for a possession order after the initial agreed period has ended and he has served the minimum 2 months' notice referred to above.

If both the tenant and landlord are happy to continue, another AST can be agreed.

Periodic Term Tenancy

If a further fixed period is not agreed, and the tenant stays beyond the end of the fixed term, the tenancy will automatically become a **statutory periodic tenancy**. The tenancy will continue indefinitely on the same terms as the initial agreement.

Assured Tenancies

These give tenants more security in a property as, after the agreement has ended, the landlord has to prove to the court that he has a ground for possession as contained in the Housing Act 1988.

Tenancy Deposit Protection Scheme

The Tenancy Deposit Protection Scheme was introduced to ensure that landlords return deposits to tenants at the end of their tenancy.

Failure to comply may lead to the landlord facing court action and being unable to repossess his property.

There are two types of Tenancy Deposit Protection Scheme used by landlords:-

Insurance Based Scheme

- The landlord registers the tenancy and deposit amount with the Insurance Based Scheme.
- The landlord retains the deposit for the duration of the tenancy.

Custodial Scheme

- The landlord must pay the deposit into the Custodial Scheme within fourteen days of receiving it from the tenant.
- The landlord is required to give the tenant the details of the Custodial Scheme which the deposit has been paid into.

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RESIDENTIAL TENANCIES – CONTINUED

Illegal Eviction

The Protection from Eviction Act 1977 makes it a criminal offence for any person to unlawfully deprive a tenant of his or her occupation of the premises. To evict a tenant from the property a landlord must obtain a court order for possession which is then enforced by court bailiffs.

Illegal eviction is a criminal offence which carries a maximum penalty of a £5,000 fine or 6 months' imprisonment in the Magistrates Court or an unlimited fine and a custodial sentence of up to 2 years in the Crown Court.

Harassment of Tenants

It is also a criminal offence under the Protection from Eviction Act 1977 for any person to harass a tenant in such a way that as a result he could be expected to give up his accommodation.

Safety Checks

Landlords should be aware that there are a number of important safety checks which they must carry out both before and during a tenancy. These include:-

Annual Gas Safety Inspection Certificate

Landlords must ensure that all gas appliances are checked for safety within 12 months of being installed and are checked for safety, at least once every 12 months.

Soft Furnishings

Landlords must ensure that all upholstered or part-upholstered furniture in rented accommodation must comply with the fire resistance requirements.

Electrical Appliances

Landlords must ensure that all electrical appliances provided as part of the tenancy are safe when first supplied.

The legislation applies to both new and second-hand appliances and covers all electrical items supplied for the intended use of the tenant.

Asbestos

Under legislation, a landlord has a duty to manage asbestos in his premises.

If an assessment shows asbestos to be present, then the landlord should prepare a plan identifying the areas concerned and outline the measures to be taken.

Fire Safety

Special fire safety regulations apply to a House in Multiple Occupation (HMO).

A landlord must undertake a fire risk assessment in respect of a HMO and ensure that the general fire precautions are satisfactory, such as that the property is equipped with fire alarms and heat or smoke detectors.

This article represents only a brief summary of some of the provisions relevant to residential lettings. If you would like to know more about the subjects covered, please contact us at :

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