



Renters' Rights Bill: Amendment to repeal the Right to Rent scheme

INTRODUCTION

The Immigration Act places a legal requirement on landlords and letting agents to check prospective tenants' immigration status to confirm that they have a right to rent in England before granting a tenancy. The consequences for letting a property to a tenant without a right to rent are severe; a responsible person may face a fine of up to £20,000 or a 5-year prison sentence.

The transformation of private landlords and letting agents into backstop border officers has resulted in discriminatory policies and behaviours, either as a result of over-caution or a reluctance to engage with additional admin in the form of right to rent checks. The threat of fines for any potential breaches of the scheme has led to many landlords declining any tenant without a UK passport irrespective of their legal right to reside in the country. In 2024, a survey of a representative sample of 2,000 landlords by the TDS Charitable Foundationⁱ found that:

- 56% of respondents who said they were unable to rent to individuals without a UK passport said it was due to the risk of a civil penalty for failing to comply with the right to rent regulations.
- 47% of landlords surveyed claimed that they found right to rent checks too difficult or time consuming.

In 2019, Right to Rent was declared unlawful by British High Court Judge, Mr Justice Spencer, who concluded that the scheme "causes [landlords] to [discriminate] where otherwise they would not".ⁱⁱ This decision was appealed by the government and overturned in 2020, not because the decision was incorrect, but because the discrimination caused by the policy was deemed justifiable.ⁱⁱⁱ

Shelter believes that discrimination has no home in the private rented sector, and no type of discrimination is justifiable. For many migrants, policies like the Right to Rent all but guarantee destitution and endless cycles of homelessness and rough sleeping.

This is why we are supporting the amendment tabled by Baroness Lister of Burtersett that would repeal the Right to Rent scheme, which can be found [here](#). Sponsored by Lord Cashman, Lord Tope and the Lord Bishop of Manchester.

RIGHT TO RENT PUSHES MIGRANTS TOWARDS HOMELESSNESS

People born abroad are far more likely to depend on the private rented sector than those born in the UK. Households in England with a household reference person (HRP) from the EU and those whose nationality originates from the rest of the world reside predominantly in the private rented sector (53% and 58% respectively).^{iv} This is true for only 15% of households with

a UK or ROI HRP, by contrast. Because of their disproportionate reliance on the private rented sector, people born outside of the UK are particularly vulnerable to the state-sanctioned discrimination cultivated by the Right to Rent policy, whether or not they have regularised immigration status.

There is strong evidence that the Right to Rent scheme has made landlords more wary of letting homes to migrants, even where they would be able to prove they have the right to rent. For example, in 2023, Generation Rent investigated the experiences of Ukrainian refugees, the majority of whom (over 93%) had arrived in the UK via the refugee schemes launched following Russia's invasion of Ukraine.^v Of the 259 Ukrainians who were actively looking for a home to rent privately between November 2022 and January 2023:

- 1 in 8 (12.4%) stated that they had struggled to prove their right to rent in England to a landlord or letting agent.
- Over two thirds (67.6%) had struggled to find a landlord or letting agent to rent to them as a migrant or refugee.

One respondent said: *"I need to find a place to rent within two months. The deadline has already been reduced to one month, and the search has been unsuccessful. Many agencies, when they hear an accent, when they see a foreign surname – they simply say that everything is busy for viewing weeks ahead."*^{vi}

The Right to Rent scheme compounds other barriers to securing a home which impact migrants in the UK. The No Recourse to Public Funds condition, which affected almost 2.6m people with visas at the end of 2022,^{vii} prevents people affected from accessing social housing, housing benefit or homelessness assistance from local authorities. And asylum seekers are denied the right to work, meaning that when they receive confirmation of their status as refugees, they are at high risk of homelessness with no savings to fall back on.^{viii} Right to Rent means that even migrants who can overcome these barriers to affording a home can still face discrimination which leaves them locked out of a safe place to live.

The Right to Rent scheme is designed in a way that forces people who have been refused asylum and others without immigration status into homelessness and destitution. Shelter believes that homelessness is not a valid aim for government policy. Doing so only serves to marginalise people and leaves them vulnerable to abuse.

RIGHT TO RENT CAUSES AND LEGITIMISES RACIAL DISCRIMINATION

The Right to Rent has a wider impact on people of colour who were born in the UK or have been legally settled here for many years, affecting many renters who were never intended to be subject to the policy.

The severe penalties involved mean that landlords are wary of getting it wrong, and often unwilling to go through the checks required for prospective tenants who cannot simply produce a passport.^{ix} This widespread reluctance has a serious impact on particular groups who have long lived in the country and do have the Right to Rent but may lack documentation to

prove it. This includes the Windrush generation: in 2011, over 20,000 people who moved to the UK before 1971 had neither a British passport nor a passport from the country where they were born.^x

Where a tenant's immigration status is not straightforwardly proven, the Right to Rent scheme tempts landlords to resort to proxies – such as skin colour, name, or accent – to judge whether it is safe to let to them, or choose the much simpler option of rejecting their applications outright. A prospective white tenant's profile is 36% more likely to receive a positive response when applying to rent a home than a Black tenant's profile.^{xi} And a recent mystery shopping exercise by Universities of Exeter, Sheffield and Wisconsin found that people with typically white-sounding names received 25% more responses to their online enquiries about rental properties than those with traditionally South Asian names.^{xii} Right to Rent legitimises these covert forms of discrimination which go far beyond the policy's intended aim.

Shelter believes that discrimination has no home in the private rented sector, and no type of discrimination is justifiable. For many migrants, policies like the Right to Rent all but guarantee destitution and endless cycles of homelessness and rough sleeping.

If you would like to discuss the Renters' Rights Bill with Shelter, please feel free to contact us at public_affairs@shelter.org.uk.

Shelter urges peers to support the amendment outlined below:

Lead member: Baroness Lister of Burtersett

Sponsors: Lord Cashman, Lord Tope, the Lord Bishop of Manchester

After Clause 136, insert the following new Clause –

“Repeal of right to rent

(1) The Immigration Act 2014 is amended as follows:

(2) Omit Sections 20 (residential tenancy agreement) to 37 (interpretation)

(3) Omit Schedule 3 (excluded residential tenancy agreements)”

Explanatory statement

This amendment would repeal the Right to Rent scheme, which places a legal requirement on landlords and letting agents to check prospective tenants' immigration status before granting a tenancy.

ⁱ Joshua More, Jennifer Harris & Andrew Smith, [Letting in the private rented sector in 2024: The voice of the landlord survey wave 1](#), TDS Charitable Foundation, June 2024.

ⁱⁱ Dearden, L. (2019) 'Right to Rent scheme violates human rights laws and causes discrimination, High Court rules', The Independent, 1st March. Available at: <https://www.independent.co.uk/news/uk/home-news/right-to-rent-scheme-human-rights-violation-racist-foreign-citizens-court-a8802666.html>

ⁱⁱⁱ March, S. (2020) 'Government successfully appeals in 'Right to Rent' case', UK Human Rights Blog, 22 April 2020 [Blog]. Available at: <https://ukhumanrightsblog.com/2020/04/22/government-successfully-appeals-in-right-to-rent-case/>

^{iv} Ministry of Housing, Communities & Local Government (2024) English Housing Survey 2022 to 2023: rented sectors

^v Tilly Smith, [The obstacles Ukrainian refugees face in accessing housing in the UK and the threat of a homelessness crisis](#), Generation Rent, March 2023.

^{vi} Ibid.

^{vii} Lucy Leon & Jacqui Broadhead, [Understanding Migrant Destitution in the UK](#), University of Oxford Centre on Migration, Policy and Society (COMPAS), May 2024.

^{viii} Generation Rent, [The road to safe homes for all: Ending the Right to Rent policy](#), November 2024.

^{ix} Joshua More, Jennifer Harris & Andrew Smith, [Letting in the private rented sector in 2024: The voice of the landlord survey wave 1](#), TDS Charitable Foundation, June 2024.

^x Ibid.

^{xi} Ibid.

^{xii} Ibid.