

Shelter Briefing: Lords Debate on the Civil Procedure (Amendment No. 4) (Coronavirus) Rules 2020

Summary

As the eviction ban has come to an end and courts return to hearing possession claims, the unique instability of private renting requires government to act carefully to sustain tenancies and avoid unnecessary evictions and rising homelessness. The government has taken steps to assist renters, yet the problems renters face have not been solved. The new Civil Procedure Rules address the processes courts must follow when hearing possession cases, government must however go further and act to protect renters from eviction due to the impact of Covid.

The Rules

The Civil Procedure (Amendment No.4) (Coronavirus) Rules 2020 were brought into force on 23rd August 2020 to set out how courts will process housing possession cases after the eviction suspension ends on 20th September 2020.

Prioritisation

All possession cases which started before August 3rd 2020 must be 'reactivated' by the landlord. If the landlord wishes to proceed, they must submit an activation notice to the court and the case will then be listed. Landlords have the opportunity to state whether their case should be prioritised, for example if the tenant is being evicted for anti-social behaviour or serious rent arrears.

The Problem

While the procedure rules work to provide the courts with a framework for processing claims, they do nothing to help resolve the problems many renters are facing. Covid has hit private renters hard, with 322,000 falling into arrears since the pandemic. Before entering into the pandemic, we knew that 75% of private renting families with children already had no savings. The inherent insecurity of the private rented sector (PRS) means that any renters in difficulty risk losing their home; the financial impact of Covid could have dire consequences.

Government action so far

The government has introduced a series of measures specifically aimed at mitigating the impact of the pandemic on renters. In March the government announced the eviction ban, initially to last for 90 days, this was then extended in June for another two months, then again in August for an additional four weeks. Subsequently to this, the government have extended the notice periods which landlords must serve when evicting a tenant to six months for most grounds. These extended notice periods do not apply where the tenant has rent arrears of six months or more, or in anti-social behaviour cases.

The government also acted to increase Local Housing Allowance (LHA) rates to cover the 30th percentile of the market. We have been calling on government to uprate LHA for many years and while a lift to the 30th percentile is progress, in these exceptional times when people could not just move to a cheaper property within the 30th percentile, this has not been sufficient protection to prevent claimants falling into spiralling arrears.

While additional time for renters is welcome, it is not a solution to the problems of accumulated arrears many renters are facing. Moreover, these extended notice periods, without support for renters and landlords to resolve the issues, risk exacerbating an already difficult situation – calls to our advice line about harassment from landlords and illegal evictions have increased since lockdown, Safer Renting reported a 42% increase in illegal evictions compared to last year.

The Solution

A lack of social housing forces many people to rely upon the PRS, however the PRS is insecure by design. Until Section 21 'no-fault evictions' are abolished and landlords have to prove grounds in order to evict their tenants, renters will be at risk of Covid-evictions. Renters would be protected by small legislative tweaks in the interim until the Renters' Reform Bill is brought forward if the judges are given discretion when hearing possession claims in Section 21 and Section 8 claims. By making these grounds discretionary, rather than mandatory eviction grounds, it would allow judges to consider how Covid has impacted the tenant's ability to pay their rent, and find workable solutions taking into account the consequences for both the landlord and tenant. This would provide real solutions and a way forward for both parties, removing the necessity for arbitrary delays to be added into the system.

However, if these legal changes are not made to offer all renters legislative protection from Covid-evictions, the government must take steps to prevent Covid-evictions by offering financial assistance to those who have fallen through the cracks in government support. In coalition with the National Residential Landlords Association, ARLA Propertymark, Crisis, Citizens Advice and Generation Rent, we have developed proposals for government for a short-term package of emergency grants and loans worth £270 million to help renters who have lost out on income or been furloughed as a result of the pandemic. This money would clear Covid specific arrears, removing the threat of eviction.

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