

New provisions of the Immigration Act 2014 to affect landlords and agents¹ from 1 February 2016

Elena Hinchin and Russell Cohen | 13 January 2016

One of the outcomes of the government's policy to tackle illegal migration is an ongoing reform which aims to deter individuals who do not have the right to stay in the UK from remaining here unlawfully. As part of this reform new legislation will come into force on 1 February 2016 which will impact landlords who wish to rent their UK properties and anyone who sublets or takes in lodgers.

These are referred to by the government as the 'right to rent checks' and will only apply to new tenancy agreements in the UK from 1 February 2016 onward, whether written or verbal.

Legal framework

Under new provisions of the Immigration Act 2014, from 1 February 2016, landlords, their appointed agents and those who sublet properties or take in lodgers may be liable for civil penalties of up to £3,000 per tenant, where those tenants are found not to have the right to rent properties in the UK due to their immigration status.

However, landlords will be able to defend themselves from such penalties provided they undertake the necessary document checks in the manner prescribed by the government.

Practical implication

In practical terms this means that from 1 February 2016 landlords renting out their UK properties (as well as their appointed agents and anyone who sublets or takes in lodgers), will need to ensure that they conduct the requisite checks and keep an appropriate record in respect of all adult tenants who enter new tenancy arrangements. The aim of these checks is to ensure that they have the right to rent these properties from an immigration perspective, namely, by verifying the prospective tenants' right to stay in the UK.

Given that these checks may be conducted within 28 days before the start of a new tenancy, landlords considering entering into new tenancy agreements may wish carry out these checks with immediate effect.

Provided checks are conducted as specified by the government and an appropriate record of these checks is kept, landlords and others covered by this legislation will

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¹ Please note that some properties are exempt from this legislation

have a defence against civil penalties in the event that their tenants and/or lodgers are found to be illegal migrants.

To this end the government has provided an online checking tool which can be used by landlords and others to conduct the right to rent checks:

<https://www.gov.uk/landlord-immigration-check>.

Immigration Minister James Brokenshire stated that:

"Right to rent is part of the government's wider reforms to the immigration system to make it stronger, fairer and more effective. Those with a legitimate right to be here will be able to prove this easily and will not be adversely affected. The scheme is about deterring those without the right to live, work or study in the UK from staying here indefinitely".

This, of course, may give rise to a variety of legal issues from discrimination to data protection and an updated Code of Practice for Landlords is expected to be issued in due course, which will provide guidance on the 'right to rent checks' obligations and will include information on how to avoid unlawful discrimination drawn up with the assistance of the Equality and Human Rights Commission."

This publication is a general summary of the law. It should not replace legal advice tailored to your specific circumstances.
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