

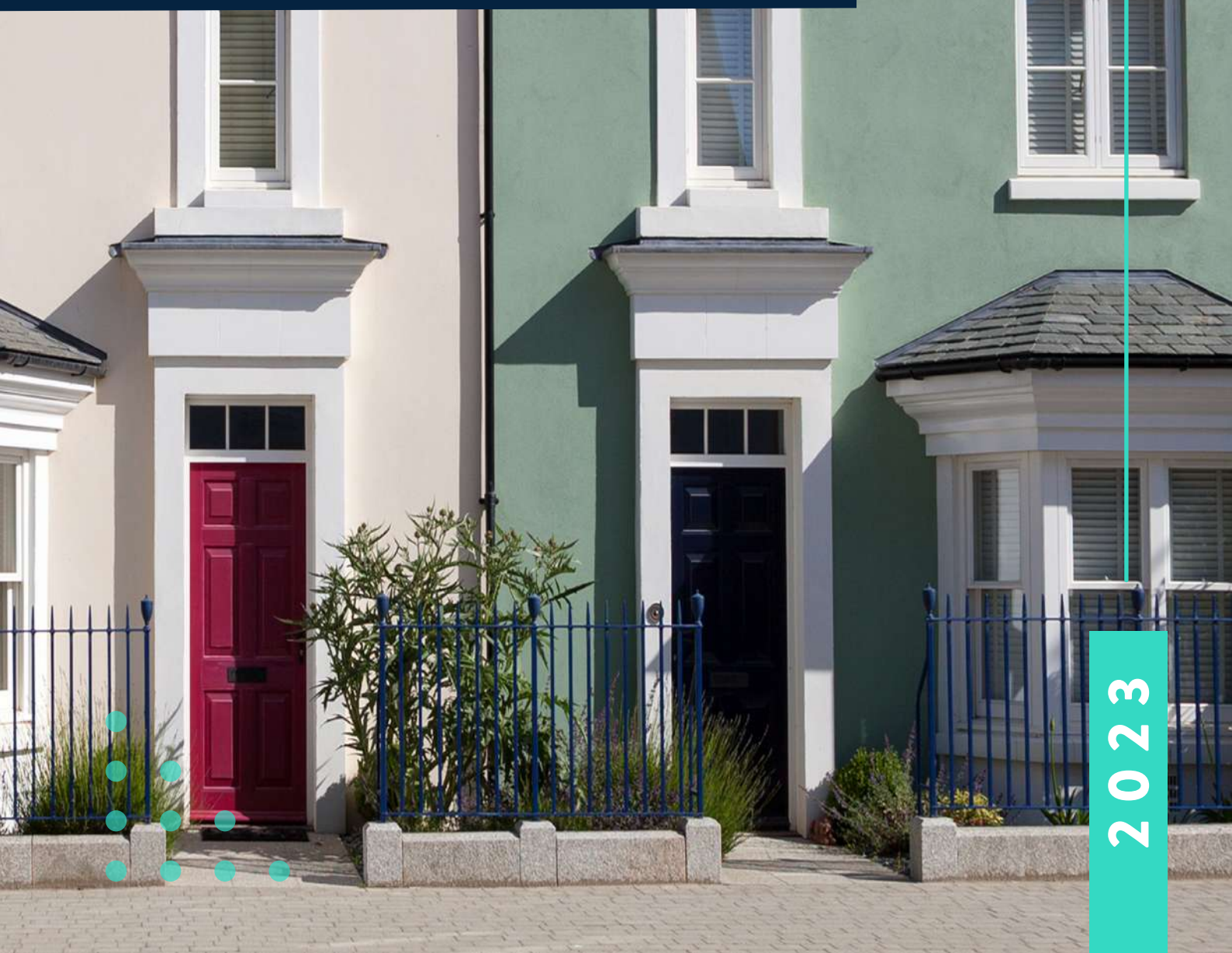
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Key lettings legislation in 2023: *at a glance*

Quick summaries, infosheets,
and practical guides for letting
agents and landlords

9

2023



Contents

KEY LEGISLATION IN 2023: AT A GLANCE



- 01**
p 3
THE A FAIRER PRIVATE RENTED SECTOR WHITE PAPER (ENGLAND)
- 02**
p 4
THE RENTING HOMES (WALES) ACT 2016
- 03**
p 5
THE COST OF LIVING (TENANT PROTECTION) (SCOTLAND) BILL 2022
- 04**
p 6
MINIMUM ENERGY EFFICIENCY STANDARDS (ENGLAND AND WALES)
- 05**
p 7
FUNDING FOR EPC UPGRADES
- 06**
p 10
DAMP AND MOULD GUIDELINES FOR LANDLORDS
- 07**
p 11
CARRYING OUT A MONEY LAUNDERING RISK ASSESSMENT

THE A FAIRER PRIVATE RENTED SECTOR WHITE PAPER (ENGLAND): *At a glance*

THE BILL IS EXPECTED TO BE INTRODUCED THIS PARLIAMENTARY SESSION

Section 21 to be abolished, while section 8 will be strengthened

Abolishing section 21 will end “no-fault evictions” in England. Grounds for section 8 will be amended to help support landlords that want to recover their properties.

Periodic tenancies to become standard

Tenants on an Assured Tenancy or Assured Shorthold Tenancy will move onto a single system of periodic tenancies, and will need to give at least two months’ notice to leave. However, the recent call for evidence report recommends leaving student lets on fixed-term contracts.

A legally-binding Decent Homes Standard

Setting these standards will be a first for the private rented sector, giving tenants safer, better quality, and better value homes.

A new Private Renters’ Ombudsman

A single government-approved ombudsman covering all private landlords who rent out property in England - regardless of whether they use a letting agent - will be introduced and membership will be mandatory.

A property portal for landlords

A new digital property portal will be introduced to “provide a single ‘front door’ to help landlords understand, and demonstrate compliance with their legal requirements”.

Landlords will need to give two months’ notice for rent increases

Rent increases will also be limited to once per year, and the government will end the use of rent review clauses.

Tenants to be given more rights to keep pets in properties

The government may legislate to ensure landlords don’t unreasonably withhold consent when a tenant requests to have a pet in their home - although the call for evidence response suggests abandoning these plans, or very clearly defining “unreasonably”.

Bans on renting to families with children or those on benefits to be outlawed

It will become illegal for landlords or letting agents to have blanket bans on renting to families with children or those in receipt of benefits (“No DSS”).

Sources: “A Fairer Private Rented Sector”, gov.uk

“Reforming the Private Rented Sector,” publications.parliament.uk

THE RENTING HOMES (WALES) ACT 2016:

At a glance

THE ACT CAME INTO FORCE ON 1 DECEMBER 2022

Assured Shorthold Tenancies have been abolished

Assured Shorthold Tenancies were replaced with two types of “occupation contract” - either a secure contract, for “community” or social housing landlords, or a standard contract, for private landlords.

Occupation contracts need to be issued for all new rentals

You need to draw up and use a written statement version of the occupation contract for any new contract holders within 14 days of the move-in date specified in the contract.

All existing tenancy agreements will convert to occupation contracts

For existing tenancies and licences, tenancy agreements will convert to the new occupation contract from 1 December. You'll need to communicate this at least verbally with your tenants by this date. You will then have six months to provide your current tenants with a copy of the new written statement of their contract by 1 June 2023.

Occupation contracts are made up of four sets of terms

1. The names of the parties and address of the property on each contract.
2. The “Fundamental Terms”, including possession procedures and the landlord's repair obligations.
3. “Supplementary Terms” that deal with relevant, day-to-day matters.
4. Any additional terms, for example a term which relates to the keeping of pets.

Notice periods for “no fault” evictions were extended to six months

Section 21 possession notices have been replaced with section 173 notices, meaning landlords will need to give tenants six months' notice for “no fault” evictions. Landlords can't give this notice within the first six months of the contract start date.

Rental properties should be fit for human habitation

This includes ensuring there are working smoke and carbon monoxide alarms, certificates are up to date for gas, electric, and energy efficiency. Rent isn't payable by the tenant while the property is unfit for human habitation.

Source: “Landlords: housing law is changing (Renting Homes)”, gov.wales

3

THE COST OF LIVING (TENANT PROTECTION) (SCOTLAND) BILL 2022: *At a glance*

THE BILL WAS PASSED ON 6 OCTOBER 2022

The emergency legislation was backdated to 6 September 2022

The Cost of Living (Tenant Protection) (Scotland) Bill 2022, including a rent freeze and moratorium on evictions, was backdated to 6 September 2022.

Rent increases will be set at 0% until 31 March 2023

The rent freeze will apply to all existing private residential, assured, and short assured tenancies. Landlords will be able to “re-set rent levels between tenancies”, yet new tenants will enter into a new agreement knowing that they are protected from any rent increase. The cap will apply from 6 September inclusive.

Rent increases are expected to be set at 3% from 1 April 2023

From 1 April 2023, landlords will be required to cap any increases at 3% - although private landlords will be able to apply to increase rents up to 6% to help cover certain costs. This extension will only apply to the private rented sector, as a separate agreement has been reached to keep rent increases below inflation for the next financial year in the Scottish social housing sector.

There will be exemptions to the rent freeze

Certain “prescribed costs” are exempt from the rent freeze, including insurance premiums, contracted service charges, and interest payable on mortgages. Any rent increase in this instance would be limited to a maximum of 3% of the current rent, until at least 31 March 2023, and then a maximum of 6%, from 1 April 2023.

The moratorium on evictions prevents the enforcement of eviction actions

The moratorium on evictions won't stop a landlord from taking steps to apply to the courts for an order to evict a tenant, but it prevents the enforcement of eviction actions until the restrictions end, unless an exemption applies.

Sources: “Rent cap: private landlord guidance,” gov.scot

MINIMUM ENERGY EFFICIENCY STANDARDS (ENGLAND AND WALES): *At a glance*

THE EXISTING RULES

- From 1 April 2020, landlords must not continue letting a domestic property with an EPC rating of F or G.
- Where a property does not meet the minimum energy efficiency standard, landlords must make energy efficiency improvements to raise the EPC rate to minimum E before they let the property.
- The EPC Report should include a list of recommendations detailing measures to improve the energy efficiency of a property. Improvements can be funded by third-parties, self-funded, or a combination of both.

INVESTMENT REQUIRED:

- Landlords are not required to spend more than £3,500 of their own funds on energy efficiency improvements to their property.
- If a property can't be improved to EPC E for £3,500 or less, landlords should make all upgrades possible to that price, then register an "all improvements made" exemption.

EXEMPTIONS:

- If a property is currently empty, and the landlord isn't planning to let it, they don't need to take any steps to improve its rating until they decide to let it again.
- In some circumstances, landlords may be able to claim an exemption - for example, if the building is officially protected - which must be registered on the PRS Exemptions Register.

Source: "Domestic private rented property: minimum energy efficiency standard - landlord guidance," gov.uk

WHAT'S CHANGING

- The government is proposing using a phased introduction of the new standards, which means that they would apply to new tenancies from 1 April 2025 and all tenancies by 1 April 2028.
- This would limit disruption to landlords and tenants, allow more time for landlords to plan and save for improvements, and encourage a "whole house" approach to improvements.
- The consultation document notes that "improving PRS properties to EPC Band C will require greater investment", so the government wants to increase the cap to £10,000.
- Government modelling indicates that, on average, most landlords would need to spend £4,700 to bring their properties up to EPC Band C.

Source: "Improving the Energy Performance of Privately Rented Homes in England and Wales," gov.uk

FUNDING FOR YOUR EPC UPGRADES:

At a glance

Here's a list of the financial support that your agency or landlords may be able to access to help with any relevant EPC upgrades.

THE BOILER UPGRADE SCHEME (ENGLAND AND WALES)

This scheme provides one grant per property to help cover the cost and installation of low carbon heating systems such as heat pumps, at:

- £5,000 for an air source heat pump
- £5,000 for a biomass boiler
- £6,000 for a ground source heat pump

Your property may be eligible if it has an installation capacity of up to 45kWth - which covers "most homes" - and a current EPC with no outstanding recommendations for loft or cavity wall insulation. You'll also need to live in England or Wales and own the property to be eligible. The scheme will run until 2025.

◦ [Read more on the government's website.](#) ◦

VAT RELIEF ON ENERGY SAVING MATERIALS (ENGLAND, SCOTLAND, AND WALES)

Until 31 March 2027, zero-rate VAT will apply to the installation of certain energy saving materials in residential properties. Your supplier should charge you the reduced rate.

The zero-rate can also apply to "ancillary supplies" involved in the installation. For example, VAT on the installation of an air source heat pump together with new radiators and pipework will all be charged at zero, as the radiators are necessary to benefit from the heat pump.

◦ [Find the full list on the government's website.](#) ◦

A GREEN DEAL LOAN (ENGLAND, SCOTLAND, AND WALES)

Although the Green Deal Scheme was originally a government initiative, it switched to private backing in 2015.

- This loan can be put towards a variety of improvements, such as insulation, heating, draught-proofing, double glazing, or renewable energy generation, such as solar panels or heat pumps.

- Green Deal loans are repaid through electricity bill payments.
- The repayments shouldn't exceed the savings you made on your energy bill, but that doesn't mean that your bill savings will match the loan repayments, as it doesn't take into account increases in energy prices.
- The loan is also linked to your property so it would pass to the new owner if you were to sell up.

◦ [Find a list of government-approved suppliers on this government site.](#) ◦

ENERGY COMPANY OBLIGATION GRANTS (ENGLAND, SCOTLAND, AND WALES)

If you have any qualifying tenants from low-income and vulnerable households, they may be able to access an Energy Company Obligation (ECO) grant to support energy efficiency improvements.

- If your property has an EPC F or G rating, the grants must go towards upping that rating to band D or above, and the funding for private rented properties will support “the least efficient homes in bands E-G only”.
- You can encourage eligible tenants to apply for the grant to help improve your property energy efficiency “for years to come by installing electric storage heaters or fulfilling insulation grants such as free cavity wall insulation or loft insulation grant,” according to UK Energy Support.
- The government has shared that the fourth edition of the ECO “will upgrade around 450,000 homes, most of them to EPC band C” over the next four years.

◦ [Check eligibility for a grant on the UK Energy Support site.](#) ◦

EMPTY PROPERTY GRANTS (REGIONAL FUNDING)

Local councils may also be able to offer financial support to make energy improvements.

The empty homes grant in Kingston, for example, can cover up to £25,000 for thermal upgrades to windows, boiler work and insulation, on properties that have been empty for at least six months.

Please note that there may be certain restrictions through local schemes - such as not being able to sell the property within five years of receiving the grant and having to rent the property through the council's private leasing scheme for that five-year period if you're in the private rented sector for the long haul, looking into any similar local schemes could be an option.

◦ [Head to your local council's site to see what schemes may be available.](#) ◦

SMART EXPORT GUARANTEE (ENGLAND, SCOTLAND, AND WALES)

If your properties already have renewable energy, the Smart Export Guarantee (SEG) pays customers for renewable electricity they've generated and put into the grid.

This could be:

- Solar
- Wind
- Hydro
- Micro combined heat and power
- Anaerobic digestion

Some of these energy sources may also be covered by the zero-rate VAT. You'll need to sign up to an SEG tariff with a big energy company, to ensure you're not simply giving away your energy to the National Grid for free, and should shop around for the best tariff too.

—○ Search “smart energy tariff” and energy suppliers to see what may be available for you. ○—

ECO+ SCHEME (ENGLAND, SCOTLAND, WALES)

The government's £1 billion ECO+ scheme is expected to run from April 2023 until March 2024 to help homes across the country install new home insulation. This support will be available to those that don't already benefit from other government support to make home upgrades.

With this extension of the Energy Company Obligation scheme, 80% of the funding will be available to households with EPC D ratings or below and in the lower council tax bands.

A consultation concluded in December 2022 and more details are expected before the planned implementation date.

—○ Head to the government's site to read the consultation overview. ○—

DAMP AND MOULD GUIDELINES FOR LANDLORDS AND AGENTS: *At a glance*

WHAT TO DO IF YOUR TENANT REPORTS AN ISSUE WITH DAMP OR MOULD:

You should:

- Organise an inspection
- Carry out the necessary repairs in a “reasonable time”

As landlords are obliged to keep the property structure, exterior, and service installations - such as water supply - in a good state of repair, this means your agency or landlord will need to fix:

- Any pipes leaking in the property
- Broken heating systems
- Missing roof tiles or issues with the guttering
- Cracks in walls or rotten window frames
- Damaged plaster, skirting boards, and flooring - and you are also obliged to redecorate once the repair has been completed

However, you won't need to provide the tenant with alternative accommodation during repairs.

If these repairs don't fix the issue, the agent or landlord may need to carry out improvements to the property. For instance, if the property is naturally damp rather than due to a specific issue, you'll need to consider improving the heating, insulation, or ventilation of the property - or even simply buying a dehumidifier.

Source: “Damp and mould in rented homes,” england.shelter.org.uk

HOW TO AVOID ISSUES WITH DAMP OR MOULD:

The Housing Health and Safety Rating System (HHSRS) highlights actions that landlords or agents can take to avoid problems with damp and mould in their rental properties:

- Install damp proof membranes around doors and windows
- Add frost protection to pipes and tanks
- Make sure your baths, sinks, and drainage are installed correctly, to limit leaks
- Consider installing ventilated roofs and under floor spaces
- Install and encourage the use of extractor fans in key areas (e.g. bathroom or kitchen) where steam is likely
- Introduce low-level ventilation throughout the property. If the property has a large number of tenants, ventilating properly becomes ever more important.

Source: “Housing Health and Safety Rating System: Guidance for Landlords and Property Related Professionals,” gov.uk

CARRYING OUT A MONEY LAUNDERING RISK ASSESSMENT: *At a glance*

How to use a risk-based approach to carry out money laundering risk assessments at your agency

HOW TO CARRY OUT A RISK ASSESSMENT

You can decide how to record your risk assessment. It could be simple or sophisticated, depending on:

- the size and structure of your business
- the range of activities your business carries out and the nature of the products and services it supplies

KEY QUESTIONS TO COVER

When you're assessing the risks consider:

- What types of customers do you have?
- Where are you and your customers based?
- What is your customers' behaviour?
- How do customers come to your business?
- What products do you sell or services do you offer?
- What are your delivery channels and payment processes, for example cash over the counter, cheques, electronic transfers or wire transfers?
- Where are your customers' funds coming from or going to?

IDENTIFY CUSTOMERS THAT COULD POSE A RISK

Your business might be at risk of money laundering from:

- new customers carrying out large, one-off transactions
- a customer who's been introduced to you - because the person who introduced them to you may not have carried out "due diligence" thoroughly
- customers who are not local to your business
- customers involved in a business that handles large amounts of cash
- businesses with a complicated ownership structure that could conceal
- a customer - or group of customers - that makes regular transactions with the same individual or group of individuals

IDENTIFY BEHAVIOURS THAT MIGHT POSE A RISK

Behaviour that may indicate a potential risk could be when a customer:

- does not want to give you identification, or gives unsatisfactory identification
- does not want to reveal the name of a person they represent

- agrees to bear very high or uncommercial penalties or charges
- enters into transactions that do not make commercial sense
- is involved in transactions where you cannot check where funds have come from

If you suspect that any transaction relates to money laundering and/or terrorist financing, immediately send a Suspicious Activity Report (SAR) to the National Crime Activity. If you become suspicious after the transaction is completed, send an SAR at the earliest opportunity.

IDENTIFY ANY RISKS ASSOCIATED WITH YOUR PRODUCTS OR SERVICES

Depending on your business, there may be a risk:

- that inappropriate assets could be placed in your business, or moved from, or through it
- from a product or service which allows the ownership of assets to be disguised
- when you supply services without meeting your customer face to face

The types of risk you need to identify will depend on the nature of your business.

“High Value Dealers” need to be aware of the risk associated with cash sales of high value goods or services for more than 10,000 euros that can be either:

- sold through the black market - these are generally luxury items
- returned to the retailer in exchange for a legitimate cheque from them

UPON COMPLETION OF YOUR RISK ASSESSMENT

Once you have completed your risk assessment you need to:

- put in place policies, controls and procedures to reduce any risks of money laundering that you identified
- monitor your business on an ongoing basis to make sure your controls are effective
- identify and report any suspicious transactions or activities

Also maintain written records of:

- your risk assessment
- your policies, controls and procedure
- internal audits of your procedures
- what you’ve done to make staff aware of the legislation,
- any training

Source: “Risk assess your business for money laundering supervision,” gov.uk



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