

# Citizens Advice Parliamentary Briefing: Housing and Planning Bill - January 2016

## Introduction

This briefing relates to an England-only bill.

In 2015 115,000 people came to us with a problem with a privately rented home. That's 315 people every day, hit by issues from illegal eviction to harassment to lost deposits and struggles to secure the most basic repairs. That's why Citizens Advice is running a campaign to improve the private rented sector.

The private rental sector remains a market in which consumers are woefully under-protected. We want this to change. We don't see why renters should expect anything less than the protections consumers take for granted elsewhere - repairs that get done, systems to protect them from cowboys, refunds when things go badly wrong.

It is good news that the Government has started to address some of these problems through measures in the Housing and Planning Bill. However, there are three areas in the bill which our campaign focuses on: banning orders, rent repayment orders and new proposals to allow landlords who think their tenant has abandoned a property to gain repossession without going to court. More specifically, this briefing considers the following clauses:

- **Clause 37:** banning orders and the associated database of rogue landlords and letting agents
- **Clause 48:** rent repayment orders
- **Clauses 55 to 61** inclusive: abandonment

## Banning orders

We believe that renters should be as empowered in the private rental sector as they are in other consumer markets. Prospective tenants should be able to check with their local authority whether a landlord is included on the banning list. At the very least, we believe that the database of banned landlords should be made available to agencies that support disadvantaged and vulnerable people into housing to ensure their safety.<sup>1</sup>

## Proposed amendment

**Clause 37, page 18, line 4, after** "The Secretary of State must give every local housing authority in England access to information in the database." **insert:**

"(2) The Secretary of State will ensure members of the public are able to check whether or not their landlord or prospective landlord is recorded on the database, via their local authority."

**or**

"(2) The Secretary of State will make the database available to the Probation Service, the NHS and charitable agencies that support disadvantaged people to gain access to housing."

## These clauses would then read:

"(1) The Secretary of State must give every local housing authority in England access to information in the database.

(2) The Secretary of State will ensure members of the public are able to check whether or not their landlord or prospective landlord is recorded on the database, via their local authority."

**or**

(2) The Secretary of State will make the database available to the Probation Service, the NHS and charitable agencies that support disadvantaged people to gain access to housing."

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<sup>1</sup> Using a similar information sharing protocol as developed for Multi-Agency Risk Assessment Conferences <http://www.standingtogether.org.uk/standingtogetherlocal/standingtogethermarac/>

## Rent Repayment Orders (RRO)

We want tenants to gain redress that doesn't cost money and doesn't have to go through the courts - just like in other consumer markets. We think it is unreasonable to expect individual tenants, usually with no legal expertise and little resource, to be expected to take cases to a First-tier Tribunal. This would significantly reduce the likelihood of their right to rent repayment orders ever being realised. One solution to this is for a tenant's local housing authority to have a duty to help with rent repayment order applications.

### Proposed amendment

**Clause 48 page 22, line 34, replace "may" with "must"**

#### This clause would then read:

"(1) A local housing authority in England must help a tenant to apply for a rent repayment order."

### Reasonable notice - abandonment

As is confirmed in the Government's response to the 'Tackling rogue landlords and improving the private rental sector' discussion paper, there is no quantitative evidence<sup>2</sup> to suggest a need for the Bill's provisions to enable landlords to reclaim properties after abandonment without going to court.

In the Bill Committee debate, the Parliamentary Under-Secretary of State for Communities and Local Government, Marcus Jones said, "... the measure is designed for a situation in which a property has been abandoned."<sup>3</sup> In that same debate, the Minister acknowledged that existing legislation, the implied surrender provision, can be used to regain possession "... where a landlord is clear that the tenant has definitely left the property."<sup>4</sup>

Any process for regaining a property without the explicit agreement of the tenant or the issue of a court order should only be used where "... it is clear that the tenant has definitely left the property." Given that the Minister acknowledged that there is an existing process for this, it is unclear why these new abandonment provisions have been introduced. We do not believe the supposed safeguard of allowing the tenant to apply for a reinstatement of the tenancy will prevent the process being misused. As the Minister acknowledges, court procedures "... involve additional time and ... additional cost ..."<sup>5</sup>. Tenants may have good reason for not responding to their landlord's warning notices, such as their not being delivered directly to them or a long-term hospital admission. We believe it would prove too onerous for them, at a time when they are homeless, to use the expensive and time-consuming process of going through the courts to be reinstated.

Our data show that the number of local Citizens Advice enquiries about illegal eviction in the private rented sector has increased by 44 per cent over the past year. This suggests that there is a significant and increasing problem of unlawful landlord evictions. Our concern is that the abandonment provision would encourage landlords to take action against tenants without following court process and could legitimise poor practice, or be deliberately misused.

### Proposed amendment

**Part three, page 25, line 22, delete clauses 55 to 61 inclusive.**

### Contact us

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<sup>2</sup>[www.gov.uk/government/uploads/system/uploads/attachment\\_data/file/475859/151109\\_Annex\\_B\\_Government\\_Response\\_to\\_Tackling\\_Rogue\\_Landlords\\_Consultation.pdf](http://www.gov.uk/government/uploads/system/uploads/attachment_data/file/475859/151109_Annex_B_Government_Response_to_Tackling_Rogue_Landlords_Consultation.pdf)

<sup>3</sup> Housing and Planning Bill Committee Debate column number: 321 [Commons Hansard 27/11/15](#)

<sup>4</sup> Column number: 322

<sup>5</sup> Housing and Planning Bill Committee Debate column number: 320 [Commons Hansard 27/11/15](#)