



iHowz view of the Renters' Rights Bill

iHowz Landlord Association¹ submit this 12-point plan as a response to the Governments call for evidence² with their views on the Renters' Rights Bill³ (RRB).

Overview.

In our paper *Levelling up the Private Rented Sector*⁴ we presented our views on our recommendations we believe would help the Private Rented Sector (PRS) and use that as a basis for this paper.

Summary of Recommendations

In this paper, iHowz recommends:

1. Section 24 (Tenant Tax) be amended to encourage landlords to remain in the sector
2. Property Conditions.
That the Decent Homes Standard be re-written before landlords must comply.
The review of Housing Health and Safety Rating System (HHSRS) be published
Replace Licensing with a Property MoT
3. Court and tribunal reform
4. Not allow the tenant to give two months' notice in the first 4 month of a tenancy.
5. Retain Fixed Term Tenancies where tenant requests, with landlord agreement
6. Allow larger deposits where a tenant requests to keep a pet
7. That these proposals are phased in, only when improvements to court services are effectively introduced
8. That the review of the Energy Performance Certificate (EPS) be published, before landlords must adhere to a revised Minimum Energy Efficiency Standard (MEES)
9. Allow an engineer to entry without a warrant to re-certify gas or electric systems
10. To implement the Portal proposed in the Renters Reform Bill.
11. To implement the ROPA Report.
12. To allow re-possession of a property failing to meet the Decent Home Standard

¹ iHowz Landlord Association have been in existence, in one form or another, since 1974; based in the Southeast, it supports landlords over the country.

² <https://www.parliament.uk/business/news/2024/october/renters-rights-bill-call-for-evidence/>

³ <https://publications.parliament.uk/pa/bills/cbill/58-03/0308/220308.pdf>

⁴ <https://ihowz.uk/wp-content/uploads/2022/04/iHowz-Green-paper-on-the-future-of-the-PRS-April-2022-Final-version.pdf>

Recommendations

1 - Section 24

Section 24 of the 2015 Finance Act, often referred to as the "Tenant Tax", was introduced to create what the government viewed as a more balanced playing field between homeowners and buy-to-let landlords. Phased in between April 2017 and April 2020, it limited the ability of landlords to deduct mortgage interest and other finance costs from their rental income before calculating tax. Instead, landlords now receive a basic rate (20%) tax relief on those costs.

Landlord Perspective on Section 24

Landlords argue that this tax reform is unfair because:

- **Impact on Renters:** The inability to fully deduct these costs has led to increased operating costs for landlords, who often pass these costs on to tenants in the form of higher rents. This is why Section 24 is often called the "Tenant Tax"—while landlords bear the initial financial burden, tenants ultimately face the consequences.
- **Cost to the Government:** Whilst the Treasury can argue it has enhanced taxation income, it can be countered by arguing that the cost to the benefit system has substantially increased.
- **Property as a Business:** Unlike homeowners, landlords purchase property as a business investment with the aim of earning income, not as a personal residence. In all other businesses, owners can deduct necessary expenses (e.g. operating costs, raw materials, etc. including loan interest) before calculating taxable profits. Landlords contend that property ownership is a business, so mortgage interest and other finance costs should similarly be fully deductible as legitimate business expenses as for Letting Agents.
- **Unintended consequence:** In order for a business to be successful and offer the opportunity to grow it must make sufficient profit that the retained funds can be used for improving or adding new assets. S24 has reduced landlords' profitability risking the return to under-investment and delayed or abandoned plans for additional purchases.

Comparison to Other Sectors

Landlords highlight that:

- If other businesses were taxed similarly, prices would rise. For instance, if supermarkets had to pay tax on the cost of their goods and not be able to deduct those costs, the price of groceries would necessarily increase. The same principle applies to the private rental sector, where rent increases have been attributed, in part, to this taxation change.

Call for Reform

Landlords, therefore, call for the government to amend Section 24 to:

- **Mitigate Rent Increases:** By easing the tax burden on landlords, reforming Section 24 could help prevent further rent increases, making housing more affordable for tenants.
- **Restore Fairness:** Allow landlords, like other businesses, to deduct necessary expenses (including mortgage interest) before tax is calculated. This would align the tax treatment of rental property with that of other businesses. Thus, potentially reducing the benefits bill.

This appeal for amending Section 24 stems from a belief that landlords should be treated as businesses as Letting Agents, with the ability to offset necessary costs, ensuring fairer taxation and less pressure on the private rental sector.

See Appendix 1 for suggested amendments.

2. Property Conditions and Legislation

- **Existing Regulations:** The safety and habitability of rental properties are covered under several legislative acts, beginning with the **Landlord & Tenant Act 1985**, which mandates that a privately rented home must be fit for living. The **Decent Homes Standard (2000)** applies to the social housing sector but has not yet been extended to private rentals. Furthermore, the **Housing Act 2004** introduced the **Housing Health and Safety Rating System (HHSRS)**, a risk-based system to assess hazards in homes. Additional safeguards were introduced in the **Homes (Fitness for Human Habitation) Act 2018**.
- **Inadequacies of Current Standards:** The Decent Homes Standard and HHSRS have been under review due to their perceived inadequacies, but no reports from these reviews have been published to date. Specific concerns, such as the poorly detailed guidance for certain hazards, remain unresolved.

Landlord Registration and Redress

- **Landlord Registration:** A landlord registration scheme, originally proposed in 2010, was seen as a positive step. However, it was scrapped in 2010 instead of being refined to be practical. A central landlord registration database is currently proposed under the **Renters Rights Bill**, though the mechanics of the system remain vague.
- **Ombudsman/Redress Scheme:** There is support for an Ombudsman or redress scheme, introduced in 2014 for letting agents and property managers. Concerns revolve around the risk of confusion if too many schemes are introduced without clarity, allowing for potential exploitation of the system. It is critical that such a scheme has the power to adjudicate against both the landlord and tenant.

Licensing of private landlords' properties and Revenue Concerns

- **Licensing as Revenue:** While licensing of residential properties under the **Housing Act 2004** was intended to control poor property management and Anti-Social Behaviour (ASB) in specific areas of a Local Authority (LA), it is often seen as a revenue-raising tool for local authorities. Many LAs see it as an opportunity to license in the whole area, with many charging high fees, with no justification or plan. Only by stating that all licensed properties will be inspected over the 5-year period of the license
- This was not the intention of licensing which was to identify of management/ASB failure and only license those properties and set targets for resolving them
- Regulations should be made to ensure that LAs comply with the purpose of licensing and not use it as a method of raising large sums of money from landlords
- Additionally, it is a poor revenue model for local authorities, as all revenue comes in year 1, with all costs spread over 5 years. And the council may be unsuccessful in a new scheme, resulting in them losing key members of staff.

The introduction of a Property MoT would offer a more consistent, lower cost model, where local authority resources are freed up to focus on non-compliant properties.

- **Southampton Model:** We urge the committee to look at the model put in by Southampton City Council to run their Discretionary Licensing Scheme which works much in the way a property MoT system would work. **Runnymede** are another council we urge to look at closer.

Call for Action

The following reforms and actions are proposed:

- **Property Portal:** Reintroduce a portal for each property, accessible via the **Unique Property Reference Number (UPRN)**⁵, which would centralise key documents like the EPC, gas inspection report (CP12), electrical safety certificates, licensing documents, and proof of title. This portal would prevent the need for landlords to register multiple times across various schemes.
- **Penalties for Vexatious Complaints:** In the event that either the landlord or tenant bring a vexatious claim, the PRS has the power to avoid costs against the vexatious party.
- **Publication of Consultation Reports:** The government should release the consultation reports for the reviews on the **HHSRS** and **Decent Homes Standard**, to inform future policies.
- Requirement for Local Authorities to provide annual reports on rental standards work, particularly where they retain licensing

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⁵ <https://uprn.uk/>

- **New Standards and Elimination of Licensing:** If new, stricter standards along the lines of a property 'MoT' are introduced along with mandatory landlord registration, there should be no need for widespread licensing schemes, which are generally seen as burdensome ineffective and often not justified.
- Landlords should be able to challenge unjustified licensing without being made via an expensive Judicial Review (JR).

These proposed actions seek to balance tenant protection with fairness in the regulatory framework, while addressing the inadequacies in the current system and ensuring a more practical, streamlined approach to landlord registration and property conditions.

3 - Courts.

Put substantially more resource into the courts:

- i. Review the decision to not have specialist Housing Courts
- ii. Increase staffing levels overall in courts.
- iii. Re-introduce the arbitration service introduced during Covid⁶.
- iv. Remove the current requirement for a personal attendance at court where a ground 8 (rent arrears) is uncontested, by introducing an Accelerated Procedure, as currently used for Section 21.

Unless landlords have faith in being able to resolve issues in a timely manner, including recovering their property where necessary, they will not offer homes to those without exceptional references and/or guarantors, and may choose to leave the market.

4 - Not allow the tenant to give two months' notice in the first 4 month of a tenancy.

Whilst we recognise the need for tenants to have security of tenure, and the freedom to move where required, every time a tenant moves, it costs landlords considerable sums of money.

It also introduces the unintended consequence for tenants to stay in a property for a short period of time, mimicking the Airbnb model, creating Airbnb by the back door. It would also be contrary to the minimum 90-night provision for London tenancies, specified in the Deregulation Act 2015⁷

Removing landlords' ability to defray these costs over the first six months is bound to lead to rent rises as landlords seek to balance their books.

It is proposed that Section 19 (3) of the Renters Rights Bill be amended to disallow the required 2 months' notice in the event the tenancy is a new one. This requirement would have no legal requirement in the event a new tenancy agreement is agreed, where the tenant(s) and property remain essentially the same.

The removal of an initial longer term has been argued as being necessary to allow tenants to easily move, should a property not meet expected standards. The contra argument is that this Bill is seeking to raise standards and introduce additional tenant rights over and above those in existence. Despite the information provided in the How to Rent Guide and by tenant advocates, such as councils, Citizen's advice and tenant groups, it is a lack of tenant knowledge, rather than legislation which has often been the main reason for tenants failing to seek redress.

⁶ <https://www.simmons-simmons.com/en/publications/ck880e5po1gzc0988o32stokm/arbitration-a-solution-to-covid-19-delays-in-court-systems>

⁷ <https://www.legislation.gov.uk/ukpga/2015/20/notes/division/5/46>

5 -Fixed Term Tenancies for General Tenants

- Many tenants favour a fixed term tenancy as they may wish to remain within a school catchment area or have a fixed term of employment.
- iHowz propose that if all parties agree, there should be a legal provision for such tenancies, providing clarity and peace of mind.
- Protection for Tenants: In cases where there are serious issues with the property, tenants should have the right to end the tenancy without notice. If a tenant reports a problem to the local authority and a Section 11 Improvement Notice is served, and not complied with in the stated period, the tenant would be able to terminate the tenancy. This ensures tenant protection in cases of substandard living conditions.

Student-Specific Fixed Term Tenancy (SST)

This time in a student's life is critical for them, with many leaving their parental home for the first time. Many students learn from a shared house how to live/negotiate. This could be lost if Purpose Build Accommodation (PBSA) becomes their only option.

The Fixed Term model for students has worked successfully for many years, for both student tenants and landlords alike.

- Proposal for SST: A Student Shorthold Tenancy (SST) would specifically cater to the needs of student renters. This type of tenancy would have:
 - A clear commencement date and completion date, ensuring students have guaranteed accommodation for the academic year or term.
 - That the tenants won't be contractually obliged until early in the calendar year, rather than the end of the previous calendar year.
 - It is unrealistic to suggest that landlords could simply replace tenants who wish to hand back a property early, as many of these properties are subject to Article 4 and other planning restrictions in addition to licensing, and lack of a fixed term would remove certainty for the next academic let.
- Termination for Health and Safety Violations: Like the general fixed-term proposal, If a tenant reports a problem to the local authority and a Section 11 Improvement Notice is served, and not complied with in the stated period, the tenant would be able to terminate the tenancy. This ensures that landlords maintain a safe and habitable living environment for students.
- Landlord Accreditation Requirement: Only landlords who are part of an appropriate accreditation scheme (which sets standards for student accommodation) would be eligible to issue an SST. If a landlord does not meet these accreditation standards, they would only be able to offer a standard Assured Tenancy, as outlined in the Renters Rights Bill.

Summary of Key Benefits

- Tenant Security: Fixed term agreements provide clarity and security for both tenants and landlords.
- Specific Protection for Students: A tailored Student Shorthold Tenancy would address the unique needs of student renters, ensuring fairness and safety while providing accommodation flexibility in line with academic schedules.

This proposal strikes a balance between providing tenants, including students, with security and ensuring landlords meet their obligations.

See Appendix 2 for suggested amendments.

6 - Allow larger deposits where a tenant requests to keep a pet

Landlords fully appreciate the role of pets for many tenants, and their place in the family structure.

However, it is a fact that often pets, cause damage to the property that landlords will have to rectify when the tenant moves on.

Although it is proposed that tenants wishing to keep pets can be obligated to have appropriate pet insurance all the time they have pets, by its nature, pet insurance will only cover the unexpected, such as breaking something. It will not cover the more likely event of pets causing damage by scratching, and/or urinating indoors, or treatment for fleas. There is also the risk that unless the insurance is maintained by the landlord, the tenant could simply cancel their cover once they have shown the insurance certificate to their landlord.

If landlords are not able to take a larger deposit, if they wish, their only alternative is to charge a higher rent for a tenant wishing to keep pets. This could eventually lead to a higher charge for the tenant, as against a higher deposit. Additionally, whilst a deposit could be refundable in the event no damage is caused, clearly higher rent wouldn't be refundable.

It is proposed that the Tenants Fee Act, 2019, be amended to allow the taking of two extra weeks rent where the tenant proposes to keep a pet. As per any deposit, this would be fully refundable in the event it is not required.

It is also proposed that the Renters Rights Bill be amended to define a pet as a household pet, to be kept indoors, where necessary in an appropriate enclosure [snakes, lizards, fish, etc].

7 – That these proposals are phased in, with court changes taking priority

The Renters Rights Bill, proposes to bring in substantial requirements on landlords, which will take some time to implement.

It is impractical to implement all these changes as soon as Royal Assent is granted.

Additionally, the move from a process to recover a property with minimal court intervention (Section 21) to one wholly requiring a court will bring substantial stress on the court system.

It is proposed that the Renters Rights Bill be amended to have an implementation period of one year from Royal Assent, preceded by the court improvements to ensure all cases are heard within one month of filing.

8 – EPC & MEES review

Call for EPC Review Publication Before Revised MEES Compliance

- Energy Performance Certificate (EPC) Review: The government has been reviewing the EPC system, which assesses the energy efficiency of properties and provides a rating from A (most efficient) to G (least efficient). This system plays a key role in determining whether a property meets the required energy efficiency standards.
It is critical that central Government publish all the requirements as soon as possible, and encourage landlords to carry out energy saving matters.
- Minimum Energy Efficiency Standard (MEES): The MEES regulations currently require privately rented properties to have a minimum EPC rating of "E" or above, and the government has indicated that this standard will be tightened to require higher ratings (such as "C") by 2030. However, landlords are concerned about the costs and feasibility of making significant upgrades to properties.

The Proposal

Landlords are calling for:

- Publication of the EPC Review: Before the MEES regulations are updated, the review of the EPC system should be published. This will allow landlords to fully understand the proposed changes to the energy efficiency standards and the implications for their properties.
- Informed Compliance: Without access to the EPC review, landlords may be required to comply with new energy efficiency standards without sufficient time to plan or budget for the necessary improvements. The publication of the review will provide the clarity needed to ensure that any new MEES regulations are reasonable and achievable.

This proposal aims to ensure that any changes to energy efficiency standards are introduced in a transparent and fair manner, allowing landlords to make informed decisions and necessary upgrades in a realistic timeframe.

9 – Allow an engineer to enter without a warrant to re-certify gas or electric systems

Rightfully, it is a criminal offence for a landlord to let a property without a valid CP12 Gas Safety Certificate⁸. However, the tenants right to peaceful enjoyment⁹ currently overrides this requirement where the tenant refuses access to a gas engineer.

Whilst it is not a criminal offence to not have a valid electrical test certificate (EICR), a landlord could face criminal prosecution for breaching electrical safety regulations

It is proposed that the Renters Rights Bill be amended, to allow an appropriately qualified gas engineer or electrician to enter a rental property without a warrant with or without the landlord/agent, for the sole purpose of a gas inspection or electrical inspection, where the existing Certificate is due to expire within one month. Prior notice must be given in writing.

⁸ <https://www.hse.gov.uk/gas/landlords/gassaferecord.htm>

⁹ Jenkins v Jackson: ChD 1888

10 - To implement the Rental/Property Portal proposed in the Renters Reform Bill.

The Renters Reform Bill proposed a Portal to give access to all the required information. This is not in the Renters Rights Bill.

It is considered that such a Portal would greatly benefit all tenants'/ landlords/ agents/ Regularors alike.

A Freedom of Information request has revealed the Portal has been worked on since 2021, and that over £851,000 has been spent developing it.

It is proposed that the work on the Portal now be completed, and that it gives access to the following:

- new database proposed in the Renters Rights Bill
- gas safety certificate (CP12)
- electrical safety certificate (EICR)
- EPC
- any relevant property licence, or planning use class
- membership of Ombudsman

and that it be driven by the Unique Property Reference Number (UPRN)¹⁰.

Given that, so far, the design and development does not appear to have involved the engagement or participation of the relevant stakeholders (courts, local authorities, landlords, agents, tenants and tenant support groups) it would seem prudent to make the current design and proposed further development available to these groups at the earliest opportunity. This would allow the various stakeholders to confirm the design included all relevant data, highlight any omissions and agree any phasing or requirements. By involving these groups at an early stage would also allow better specification of data input, validation and reporting. Allowing those who will ultimately be using the system to participate both in the design and testing would help ensure the Portal lives up to its requirements when it is delivered.

It is also critical that the portal signposts tenants and landlords to all appropriate information.

11 – To implement the ROPA Report.

In July 2019 the working group on Regulation of Property Agents (ROPA) presented its final report¹¹ which recommended several key measures to implement this plan:

1. Define the scope of the new regulatory system to cover all property agents.
2. Establish a licensing regime to ensure compliance with qualifications.
3. Create a robust framework for codes of practice.
4. Mandate qualifications for agents.
5. Increase transparency on leasehold and freehold charges.
6. Set up a regulator with defined roles and relationships.
7. Ensure strong assurance and enforcement mechanisms.

Stating that this approach will enhance professionalism and protect consumers.

As a Landlord Association, we are sometimes shocked at the minimal knowledge of a small minority of agents and call for this to be added to the Renters Rights Bill.

¹⁰ <https://uprn.uk/>

¹¹ https://assets.publishing.service.gov.uk/media/5d2f455240f0b64a855315d7/Regulation_of_Property_Agents_final_report.pdf

12 - To allow re-possession of a property failing the Decent Homes Standard – where rectification with tenants in-situ is not possible/practical.

There will be occasions where, for what ever reason a rental property fails to meet the Decent Homes Standard, including the lack of required certification.

Frequently, it will be possible to rectify with tenants in-situ, albeit with inconvenience on both sides. It may even be possible to schedule during periods when the property is temporarily vacant – e.g. holidays.

However, there will be occasions when it becomes impossible for the property to be brought back to required standard whilst it is tenanted.

If the Renters Rights Bill becomes law in this current condition, it might not be possible for a landlord to meet their legal obligation.

The Proposal

That there be an extra Ground within the current Ground 8 of Section 8 that allows re-possession where it is deemed the property fails to meet the current Decent Homes Standard, and a Housing Officer, or chartered surveyor advise the property must be void for safe working.

Summary

In conclusion, we respectfully urge the government to consider these proposed amendments, which will not only ensure fairness for landlords but also provide long-term benefits for renters and the housing market overall.

We are concerned that previous legislation has generally had the unintended consequences of badly affecting the very people it was supposed to protect – the tenants. Renting homes to people is a serious business, and it should be treated as such.

We are available for further consultation or to provide additional information as needed.

Thank you for considering our submission.

Contact:

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Appendices

Appendix 1 – Section 24 amendment

Suggested wording

★ To move the following Clause—

Restricting deductions for finance costs related to residential property

- (1) Section 272A of the Income Tax (Trading and Other Income) Act 2005 as amended by Finance (No. 2) Act 2015 is amended as follows.
- (2) For subsection (4) substitute—
“(4) In calculating the profits of a property business for income tax purposes for the tax years 2020-21, 2021-22 and 2022-23 no deduction is allowed for costs of a dwelling-related loan.”
- (3) After subsection (4) insert—
“(4A) Where a deduction is allowed for costs of a dwelling-related loan in calculating the profits of a property business for the tax year 2023-24 or any subsequent tax year, the amount allowed to be deducted in respect of those costs in calculating those profits for income tax purposes is 100% of what would be allowed apart from this section.”

Member's explanatory statement

This amendment removes the restricted deductions for finance costs related to residential property from the tax year 2023-24 and all subsequent tax years.

Appendix 2 Fixed Term

Suggested wording

★ To move the following Clause—

Periodic assured tenancies to have rent period not exceeding a month

In the 1988 Act, before section 5 insert—

“4A Assured tenancies to have rent period not exceeding a month

- (1) Terms of a periodic assured tenancy are of no effect so far as they provide for periods of the tenancy to be different from the periods for which rent is payable (“rent periods”).*
- (2) Where terms of a periodic assured tenancy are of no effect by virtue of subsection (1), the tenancy has effect as a periodic tenancy under which the periods of the tenancy are the same as the rent periods.*
- (3) Terms of a periodic assured tenancy which provide for the rent periods are of no effect if they—
 - (a) provide for any rent period to exceed 28 days, and*
 - (b) do so otherwise than by providing for monthly rent periods.**
- (4) Where terms of a periodic assured tenancy are of no effect by virtue of subsection (3), the tenancy has effect as if it provided—
 - (a) for successive rent periods of one month beginning with the first day of the tenancy, and*
 - (b) for the rent for each such rent period—
 - (i) to be the amount calculated in accordance with the formula in subsection (5), and*
 - (ii) to be due on the first day of the period.***
- (5) The formula is—
$$\frac{R}{D} \times 30.42$$
where—
R is the rent that would have been due for the first rent period of the tenancy under the terms that are of no effect by virtue of subsection (3);
*D is the number of whole days in that period.**
- (6) Except as provided by subsections (1) and (3), nothing in this section limits any right of the landlord and the tenant to vary a term of a tenancy by agreement.*
- (7) For the purposes of this section, terms of a periodic assured tenancy provide for “monthly” rent periods if they provide for rent to be payable for successive periods of one month, disregarding any provision for the first period to be a different period not exceeding 30 days.”*