

Beware the Housing Act 2004

The way in which the Government introduces legislative change is one of the difficulties in which we all face in trying to stay up to date with the law. The Housing Act 2004 is a good example of this.

Not only do we have to be aware that two years later the most significant aspects of the Act are still being brought into force but also this is an Act which covers a lot of property related matters. It ranges in subject from regulations for privately rented houses in multiple occupation (HMOs) to rules on the general level of energy efficiency of residential accommodation.

A “taster” is all that space will permit but your attention is drawn to the following:

HMOs

The aim of the Act in respect of houses in multiple occupation (HMOs) is to introduce a licensing scheme to be operated by the relevant local authority. The licensing scheme is aimed to improve the physical condition and management standards of such accommodation.

The definition of an HMO is wide but initially the licensing scheme is only aimed at HMOs of three or more storeys occupied by five or more people. It is a compulsory scheme and the sting in the tail is twofold.

If the landlord lets a property that should be licensed as an HMO but fails to apply for a licence this is an offence under the Act. The landlord can be fined up to £20,000.

If the landlord is operating an unlicensed HMO no rent or other fee is lawfully due from the Tenant, there is however a tenancy in place but the landlord cannot use the accelerated procedure under section 21 Housing Act 1998 to recover possession of its property at the end of any assured shorthold tenancy created.

This comes into force in April this year.

Housing Health and Safety Rating Standards

This standard will apply to any residential premises (whether rented or not) and so includes all HMOs and single dwelling houses.

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The Local Housing Authority can assess various aspects of a dwelling and if the relevant aspect of the dwelling is not up to the required standard then enforcement orders can be made.

Whereas at present the whole dwelling has to be unfit for human habitation before remediation can be ordered, in future specific problems in a dwelling can be required to be dealt with.

This comes into force in April this year.

Tenancy deposit schemes

This is a scheme for the safeguarding of tenants deposits, which comes into force in October this year.

Further points

The Act also makes changes to the "right to buy" scheme for local authorities (extending the initial qualification period from two to five years and the discount repayment period from three to five years and imposes the obligation that by 2010 the Secretary of State must ensure that the general level of energy efficiency of residential accommodation in England has increased by 20%.

As a postscript the Housing Act 2004 is of course also the Act which has provided for the introduction of the controversial Home Information Packs !!

If you wish to discuss the issues above further in relation to your particular circumstances please contact Martin Buckeldee on 01276-686222