

Housing and Planning Act 2016: Implications for Landlords and Property Agents

Landlords and property agents will be interested in the implications of the Housing and Planning Act 2016 (HPA 2016), which introduces a range of planning and housing reforms. The provisions set out below are not yet in force.

Banning orders

Local Housing Authorities (LHAs) in England can apply to the First-tier Tribunal for banning orders against a residential landlord or property agent who has been convicted of a 'banning offence'. The definition of a banning offence is to be set out in regulations made by the Secretary of State. Banning orders will be used to prevent a person from:

- Letting housing in England.
- Engaging in English letting agency work.
- Engaging in English property management work.

A banning order must last for at least 12 months, although a banning order may contain exceptions for some or all of the period to which it relates (for example, if there are existing tenants in a property). A breach is punishable by imprisonment or a fine of up to £30,000.

Breach of a banning order does not invalidate or affect the enforceability of any provision of a tenancy or other contract. In particular, this is to ensure that a tenancy agreement cannot be found to be invalid on the basis that it was granted when a landlord or property agent was subject to a banning order.

LHAs in England will maintain a database of persons convicted of a banning order offence and every LHA in England will have access to information in the database.

Recovering abandoned premises

Part 3 of the HPA 2016 sets out a procedure that a landlord may follow to recover possession of a property let under an assured shorthold tenancy, where it has been abandoned, without the need for a court order. It relates to properties in England only.

Section 57 of the HPA 2016 provides that a private landlord may give a tenant notice bringing the tenancy to an end on the day on which the notice is given, if all of the following apply:

- The tenancy relates to premises in England.
- Rent has not been paid.
- The landlord has given a series of warning notices and no tenant, named occupier or deposit payer has responded in writing to any of those warning notices before the date specified in the warning notices. A named occupier is a person permitted under the tenancy to live at the premises. A deposit payer is a person who paid a tenancy deposit on behalf of the tenant.

The tenant can apply for their tenancy to be reinstated if they had a good reason for failing to respond to the warning notices.