

Fitness for Human Habitation Act 2018 (Homes Act 2018)

Background:

For some time, there has been a concern by Central Government, regarding the condition of rented accommodation in England, where rogue landlords are not carrying out the required repair work; failing to make their properties fit for human habitation. This placed tenants in a confused and complex process when seeking redress either through the local authorities or via the courts.

To tackle this issue, legislation has been established in 2018 called The Fitness for Human Habitation Act 2018 (Homes Act 2018). This Act has been created to place tenants in an empowering position, strengthen their role in taking action to remedy poor property standards and to force landlords to improve their properties or to exit the housing market. Below are the principle points entailed within the Act.

The Homes Act 2018:

- Comes into effect from 20 March 2020.
- Applies to the majority of tenancies with the exception of Fixed Term Tenancies signed up before 20 March 2019, Licensees and Shared Ownership leases.
- This Act applies to tenants living in England and refers to both social and private landlords and registered providers.

Meaning of the New Law:

- Landlords must ensure their properties are kept in a safe condition, healthy and free from issues which will cause serious harm to their tenants or their household members.
- Landlord's must ensure their properties are free from hazards from which a risk may arise to the health or safety of the tenant or another in their home.
- This requirement starts from the beginning of a tenancy through until the tenant officially leaves their property permanently.
- Refers to the landlord's repairing obligations and not repair work caused by the tenant's irresponsibility or the tenant's refusal to allow the landlord access to carry out the repair.
- Extends to communal parts of buildings such as hallways and stairs.
- Identifies 29 hazards such as damp and mould, electrical hazards, excess cold and excess heating. These are the hazards, which the tenant is able to take action against the landlord.
<https://www.gov.uk/government/publications/homes-fitness-for-human-habitation-act-2018/guide-for-tenants-homes-fitness-for-human-habitation-act-2018>
- These hazards are categorised by risk levels 1, 2, and 3 mirroring the Housing Health and Safety Rating System (HHSRS)
- Allows the tenant to take legal action against the landlord once a given process has been followed. <https://www.gov.uk/government/publications/homes-fitness-for-human-habitation-act-2018/guide-for-tenants-homes-fitness-for-human-habitation-act-2018>

Process to Follow:

- The tenant(s) must inform the landlord of the repair problem in writing giving the landlord a reasonable time to resolve the issue. This is categorised as a Notice of Unfitness.

- If the landlord has taken too long to rectify the repair issue, the tenant must write again to the landlord requesting they resolve the matter. In the tenant's letter, the tenant must state what needs putting right, when this has been reported, the number of requests they have made to resolve the problem and the problems they have experienced because of the outstanding repair such as worsening of a physical or mental health condition.
- The court's Pre-Action Protocol for a disrepair claim would need to be followed before an application to court can be made.
- The tenant has a right to make an application to the court to seek a redress of the problem, as the inaction of the landlord would be deemed as a breach of contract.
- The tenant has the option to engage a legal advisor to represent them.

Injunctions

- There are three types of injunctions a tenant can request to the courts for breach of contract; Mandatory Injunction, which can be used to impose Section 4 of the Defective Premises Act 1972, the area in this legislation for the liability for disrepair. Order of Specific Performance for the landlord to rectify the outstanding repair or for the tenant to carry this out and deduct costs from future rent charges. Interlocutory Injunction, requiring the landlord to put right the long standing repair.

The Court:

- If the court finds in favour of the tenant the court can direct the landlord to improve the condition of the property, make the landlord pay compensation where there are no fixed fine limits and award the court cost for the landlord to pay.
- The payment of compensations is awarded against the criteria of the length of time the repair problem has existed, how bad it is and the harm caused to the tenant and their household members; General Damages for the impact this has had on the physical wellbeing of the tenant and Special Damages, for the loss of possessions and expense caused to the tenant for works carried out by the tenant to fix the problem or for any additional housing costs.
- If the tenant wins their case in court, the tenant can be asked to reimburse the landlord's court costs.

Court Counterclaims:

- Currently, tenants can make a counter claim of disrepair on court proceedings brought against them by the landlord for a breach of contract on such matters as non-payment of rent or Anti-Social Behaviour.

Adminstrating the Notifications:

- Notices of Unfitness will be managed through the Council's formal complaints process.
- Pre-action Protocol for Disrepair Claims, will be managed by the Council's Legal Service and Insurers.

If you require any further detail or clarity, please contact the author directly.