

## Landlords renting to tenants with no 'right to rent' will face jail from 1st December 2016

Amber Rudd, the Home Secretary, announced at the Tory Party Conference that new criminal offences will start from December 2016 for those who do not carry out right to rent checks properly.

The government have now issued legislation which confirms that the new criminal offences will apply **from the 1<sup>st</sup> December 2016**. The offence will apply to Landlords who entered into tenancy agreements before the 1st December 2016 as well as after.

The new law will mean:

- Landlords will be able to **evict tenants** who have no right to rent; and
- There will be a **new criminal offence** for landlords or agents who fail to carry out right to rent checks or fail to remove illegal migrants from their property. The maximum criminal sentence will be 5 years imprisonment.

The Immigration Minister, James Brokenshire, said:

*"We are clear that illegal immigrants should not be able to access or remain in private rented accommodation, preventing lawful residents from finding a home.*

*"We know the vast majority of landlords are diligent in their responsibilities when it comes to their tenants and we want to help them to be able evict illegal immigrants more easily.*

*"But **unscrupulous landlords and agents** who exploit migrants and who repeatedly **fail to carry out right to rent** checks or fail to take steps to remove illegal immigrants from their property will find they could now face going to jail."*

### Right to Rent Checks

The new criminal provisions are a continuation of the government's policy of creating a 'hostile environment' for those unlawfully in the UK. The new offences build upon a civil penalty regime which has been in effect from the 1<sup>st</sup> February 2016 across England.

For new tenancies entered into after the 1<sup>st</sup> February 2016, landlords have been required to carry out right to rent checks or face civil penalties if found to be renting to a person who does not have the correct immigration status in the UK. Landlords will continue to be liable for **finances of up to £3,000 per tenant** where right to rent checks have not been properly done. However, landlords will now also face the prospect of going to jail. The new law also allows for Landlords to face criminal fines and to face action under the Proceeds of Crime Act (meaning the potential recovery of rent paid).

## Eviction Rules

The new rules will also make it possible for Landlords to evict tenants on account of their immigration status for the first time. In some cases, eviction will be possible without a court order.

If the occupier (or if there is more than one occupier, all of them) has no right to rent, the Secretary of State may issue a notice to the Landlord requiring them to leave the property. Where such a notice is received, the Landlord will be required to terminate the tenancy within a 'reasonable' period of time by giving notice to the tenants. The tenants must be given **at least 28 days** before the tenancy is brought to an end. Once that period passes, the notice will have the same force as if it were an order of the High Court. The new law will also make it so that the termination of a tenancy is an implied term in tenancy agreements where a tenant has no right to rent.

If Landlords do not evict their tenants where issued with a notice by the Secretary of State, they may also face prison sentences of up to 5 years imprisonment, and/or criminal fines.

Landlords will continue to have a defence if they can show that they properly carried out right to rent checks and complied with the right to rent scheme. There is ongoing concern that even experienced Landlords and Agents struggle with the finer details of the right to rent scheme, due to its **complex operation**.