



## DASH Landlord Guide

# Homes (Fitness for Human Habitation) Act 2018

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# Home (Fitness for Human Habitation) Act 2018

The above Act came into force on 20 March 2019. The aim of the Act is to help drive up standards in rented homes in both the social and private sectors and provide an alternative means for tenants to seek redress from their landlord if their rented property presents a risk of harm to the health and safety of the occupiers. It does this by empowering tenants to hold their landlord, including registered providers such as housing associations, to account without having to rely on their local authority to do so.

While the government supports those good landlords who provide decent and well-maintained homes, landlords who do not maintain safe properties prevent an effective and competitive rental market where all landlords operate on an equal footing. There are no new obligations for landlords under this Act; the legislation simply requires landlords to ensure that they are meeting their existing responsibilities with regards to property safety.

## New powers for tenants !

The Act builds upon the government's programme of work to drive up standards in the rented sector, including the new powers introduced by the Housing and Planning Act 2016. It is expected that standards will increase as tenants are empowered to take action against their landlord in cases where landlords fail to maintain their property.

## How it will work ?

The Act applies to the social and private rented sectors and, while it does not impose any new responsibilities on landlords, it does confirm that:

- Landlords must ensure that their property, including any common parts of the building, is fit for human habitation at the beginning of the tenancy and throughout.
- To achieve that, landlords will need to ensure that their property is free of hazards which are so serious that the dwelling is not reasonably suitable for occupation in that condition.

Where a landlord fails to do so, the tenant has the right to take action in the courts for breach of contract on the grounds that the property is unfit for human habitation. The remedies available to the tenant are an order by the court requiring the landlord to take action to reduce or remove the hazard, and / or damages to compensate them for having to live in a property which was not fit for human habitation



## There are some exemptions under the Act !

The landlord will not be required to remedy unfitness when:

- the problem is caused by tenant behaviour which is in breach of the tenancy.
- the problem is caused by unforeseen circumstances beyond the landlord's control.
- the problem is with tenants' own possessions.
- the landlord has not been able to get necessary consent despite making reasonable efforts to do so, e.g. planning permission, permission from freeholders etc.
- the tenant is not a person e.g. local authorities, national parks, housing associations, educational institutions.

The Act does not apply to licences to occupy. This is likely to exclude some temporary accommodation, lodgers and some property guardians, depending on whether they have a tenancy agreement or licence to occupy. Local authorities can still use their enforcement powers in these circumstances.

## Can the Councils Housing Standards Enforcement Team still get involved ?

Yes. While the Act allows the tenant to seek remedy and redress for any defect in the property, the role of the local authority will be one of advice and guidance rather than enforcement. However, local authorities may choose to offer more practical assistance to tenants seeking redress under the Act, especially vulnerable tenants.

Many tenants will use the provisions of the Act and will not contact their local authority, but some tenants might approach their local authority for advice, guidance or even assistance with the Act.

As tenants increasingly invoke their powers under the Act, local authorities will become aware of more properties that do not meet the required standards and may choose to make use of their enforcement tools to bring the property up to standard.



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## Can I evict a tenant that is pursuing action under this Act ?

DASH does not condone retaliatory evictions and there is legislation in place to protect tenants from this. In cases where a local authority has served an improvement notice or a notice of emergency remedial action, a landlord cannot evict a tenant for 6 months using a 'no fault' section 21 eviction notice.

Local authorities will be considering their enforcement policies and procedures carefully and use their existing powers to protect tenants seeking redress through this Act from retaliatory eviction. It is better to avoid potential problems before they arise by properly maintaining your portfolio.

## What should I do to make sure I comply with this Act ?

Landlords must ensure that their property, including any common parts of the building, is fit for human habitation at the beginning of the tenancy and throughout. To achieve that, landlords will need to ensure that their property is free of hazards which are so serious that the dwelling is not reasonably suitable for occupation in that condition. From a practical point of view landlords need to ensure they actively manage their tenancies, do regular property visits and keep thorough records.

Where a landlord fails to do so, the tenant has the right to take action in the courts for breach of contract on the grounds that the property is unfit for human habitation. The remedies available to the tenant are an order by the court requiring the landlord to take action to reduce or remove the hazard, and / or damages to compensate them for having to live in a property which was not fit for human habitation.



## Does the Act apply to all tenancies ?

The Act will apply to:

- tenancies shorter than 7 years that are granted on or after 20 March 2019 (tenancies longer than 7 years that can be terminated by the landlord before the expiry of 7 years shall be treated as if the tenancy was for less than 7 years).
- new secure, assured and introductory tenancies (agreed on or after 20 March 2019).
- tenancies renewed for a fixed term (on or after 20 March 2019).
- assured shorthold and introductory tenancies that become periodic tenancies on or after 20 March 2019.

For pre-existing periodic or secure tenancies, landlords will have 12 months after 20 March 2019 before the requirement comes into force.

For more information, visit [www.gov.uk/government/publications/homes-fitness-for-human-habitation-act-2018/guide-for-landlords-homes-fitness-for-human-habitation-act-2018](http://www.gov.uk/government/publications/homes-fitness-for-human-habitation-act-2018/guide-for-landlords-homes-fitness-for-human-habitation-act-2018)

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DASH Services, working with landlords, tenants and Local Authorities to raise standards in housing.

Further information on DASH, its associates, projects and successes can be found by visiting our website at [www.dashservices.org.uk](http://www.dashservices.org.uk) or by calling 01332 641111

### Also Available:

- Housing Act 2004 Guidance - The 29 Hazards. A Landlords Guide
- Housing Act 2004 Guidance – Tenancy Deposit Protection Schemes. A Guide for Landlords and Tenants
- Housing Act 2004 Guidance - Local Authority Enforcement Options. A Landlords Guide

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