

Immigration Act 2014

New rules for private landlords and managing agents

The Government recently announced the first trial phase of the new Immigration Act 2014, which will require private landlords based in the West Midlands region to conduct checks to establish that any new tenants have the right to rent in the UK from 1 December 2014.

During 2015, these checks may become mandatory for all UK landlords. B P Collins believes it is important that anyone who rents property privately, or manages property on behalf of a private landlord, is aware of the likely impact of the legislation and seeks expert legal advice if they are unsure about what they need to do.

This factsheet outlines the key action points and explains the reasons behind the new Act.

Why the Act is being introduced

Data shows that 85% of migrants who have been in the UK for less than a year make use of the private rented sector when they are looking for somewhere to live. The Government wants to ensure that these individuals are not living in the UK illegally, and it is working with councils to tackle rogue landlords who exploit migrants by housing them illegally in overcrowded accommodation.

Although many private landlords already make checks on tenants' identity and credit status, making it difficult for illegal immigrants to rent properties from them, not all do so.

By bringing in the new 'right to rent' checks, the Government says the measures mirror existing and long-standing requirements on employers to ensure that an employee has a 'right to work' here.

It makes clear that it is not asking landlords to become immigration experts and says that those who undertake simple steps will have nothing to fear, and there will not be a criminal penalty.

What this will mean to you

If you are a private landlord, then you will have to obtain and copy documents which demonstrate an individual's right to rent in the UK, such as a passport or biometric residence permit. In most cases there will be no need for landlords to contact the Home Office.

Landlords have the option to appoint an agent to act on their behalf. Where an agent has accepted responsibility for compliance with the Scheme, the agent will be the liable party in place of the landlord.

The Government has promised that the checks will be quick and straightforward for law-abiding landlords and tenants to comply with.

The new legislation will only apply to new tenants from the implementation date of the Act.

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How the scheme will work

The Home Office has introduced a resource for landlords similar to the one used by employers to check if an employee has the right to work in the UK, which has been praised as user-friendly, quick and easy to use.

The Government's comprehensive set of services to help landlords conduct the checks include:

- Guidance and online resources, supported by a local rate telephone helpline for general information
- A case-checking service for status verification where the prospective tenant has an outstanding immigration application with the Home Office, or the Home Office has their documents. A yes or no response will be provided within two working days and if no response is received within that timetable, a landlord will be able to go ahead and rent without risk of incurring a penalty

The resource centre can be found at:
www.gov.uk/legal-right-work-uk

The Code of Practice

A working draft "**Code of Practice on illegal immigrants and private rented accommodation - Civil penalty scheme for landlords and their agents**" has been published on the Home Office website (www.gov.uk) which explains how the scheme works and includes draft regulations.

The Code does not impose any legal duties on landlords, nor is it an authoritative statement of the law; only the courts can provide that.

However, the Code can be used as evidence in legal proceedings and courts must take account of any part of the Code which may be relevant.

Home Office officials will also have regard to this Code in administering civil penalties to landlords and their agents under the Immigration Act 2014.

Penalties for non-compliance

Under the new measures the Home Office will, for the first time, be equipped with powers to deal with landlords who rent homes to illegal migrants.

They will be able to impose a civil penalty, which could be up to £3,000, on landlords or agents who are responsible for undertaking checks and fail to do so, or who knowingly allow illegal immigrants to rent their properties.

Get in touch

If you are a private landlord or a managing agent for one, and are concerned about any aspect of what this might mean to you, don't hesitate to contact a member of our experienced property team.

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