



Assured Shorthold Tenancy Rent Threshold



From 1st October 2010 the rental threshold for Assured Shorthold Tenancies (ASTs) has increased from £25,000 per annum to £100,000 per annum. The increase applies retrospectively.

Due to the retrospective nature of the change, it leaves landlords at risk of failing to register rent deposits held, as many tenancies that were not ASTs at the date of grant, or prior to 1st October, have automatically become ASTs overnight (provided a relevant exemption does not apply). There is an obligation on the landlord to protect a tenant's deposit within one of the three tenancy deposit schemes introduced by the Housing Act 2004.

Failure on the part of the Landlord to protect deposits can result in proceedings

being taken against them and fines being imposed. It is therefore important to notify clients of the change and make them aware of the implications.

The courts are yet to decide whether a deposit under a tenancy entered into, on or after 6th April 2007 would have to be protected under one of the tenancy deposit schemes. However, Landlords are strongly advised to also protect deposits taken prior to the change in respect of tenancies that have become ASTs due to the rent threshold increase, where the deposit was taken before the change.

A positive result of the change is that it will result in faster dispute resolution for the Landlord and Tenant as it avoids the court. The changes will also affect the procedures for gaining

possession of properties held under ASTs. At least two months notice will now need to be given to the tenant by service of a Section 21 notice (pursuant to S21 Housing Act 1988) instead of the common law notice to quit. Recovering possession under forfeiture clauses, for example, in the event for failure to pay rent will now have to be dealt with by service of a Section 8 notice (pursuant to S8 of the Housing Act 1988).

It is not all bad news for Landlords; the change in threshold should result in a decrease in the number of tenants who have rights of first refusal when the Landlord comes to sell its interest as AST tenants are not qualifying tenants and do not therefore have rights to purchase the property under the Landlord and Tenant Act 1987.

This change is only applicable to affected tenancies in England. It will particularly affect tenancies in the London area, due to the nature of the value of tenancies in this area, large family homes, large shared houses and luxury lets.

For more information contact Mike Regan on 023 8057 4341



E-brief

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