

IMMIGRATION ACT 2014

EXPLANATORY NOTES

COMMENTARY ON SECTIONS

Part 3: Access to Services etc

Chapter 1: Residential tenancies

Section 24: Excuses available to landlords

141. This section sets out the statutory excuses available to landlords to avoid a penalty for renting to someone who is disqualified. A landlord can establish an excuse if he carries out checks according to the prescribed requirements and the carrying out of those requirements did not show that the prospective occupant was disqualified. A landlord, including a superior landlord who accepts responsibility on behalf of an immediate landlord under section 23(5), also has an excuse if he arranges for an agent to do the checks for him (*subsection (2)*).
142. *Subsections (3) and (4)* set out the duration before a tenancy commences within which the checks must be carried out. In the case of those with permanent status in the UK, the checks may be carried out at any time before the tenancy is entered into. For those subject to immigration control and/or who have a limited right to rent the checks must be carried out within a set period prior to the commencement of the tenancy. This period will be specified by order. This is to prevent a perverse scenario whereby checks reveal a person's leave will expire prior to the commencement of the tenancy but a landlord is nevertheless able to rent to them because they had valid leave at the time the check was carried out.
143. *Subsection (6)* sets out that if an occupant's leave expires during a tenancy the landlord can establish an excuse by carrying out repeat checks at the specified intervals, (or arranging for an agent to do so), and by then telling the Secretary of State that a disqualified person is in their property if the repeat check identifies that the person's limited right to rent is no longer valid. They must make this report as soon as reasonably practicable after making the repeat check.
144. *Subsection (7)* sets out how a landlord can be said to have notified the Secretary of State "as soon as reasonably practicable."
145. *Subsection (8)* requires notification to the Secretary of State to be made in the prescribed form and manner. This will be specified by order.
146. *Subsection (9)* defines "limited right occupier" to mean an occupier who had a limited right to rent when first granted a right to occupy the premises.