

EXPLANATORY MEMORANDUM TO
THE ASSURED SHORTHOLD TENANCY NOTICES AND PRESCRIBED
REQUIREMENTS (ENGLAND) (AMENDMENT) REGULATIONS 2015

2015 No. 1725

1. This explanatory memorandum has been prepared by the Department for Communities and Local Government and is laid before Parliament by Command of Her Majesty.

2. Purpose of the instrument

2.1 These Regulations amend the Assured Shorthold Tenancy Notices and Prescribed Requirements (England) Regulations 2015 (“the principal regulations”) by substituting a new form for the form contained in the Schedule to the principal regulations in order to correct an error identified in paragraph 3 of the form. The correction makes it clear that where landlords wish to use section 21 of the Housing Act 1988 (“the Act”) to seek possession against tenants occupying properties under periodic tenancies under which more than two months’ notice is required, the form is valid for four months from the date after which possession could be required and not four months from the date of issue of the form as was stated in the original form.

2.2 In substituting a new form we have also taken the opportunity to make a number of minor stylistic changes to further improve the accessibility of the form to users. These include further explanation of: the circumstances in which landlords are not permitted to use section 21 of the Act to seek possession against tenants; how to calculate the date after which possession could be required; which types of tenancy are exempt from the requirement to use the form; and which types of tenancy may require more than two months’ notice of landlords’ intentions to seek possession.

3. Matters of special interest to the Joint Committee on Statutory Instruments

3.1 To ensure the correction is made before the principal regulations and the requirement to use the form come into force on 1st October 2015, the Department is making an amending instrument. Given the relatively minor nature of the correction and the urgent need to rectify the principal regulations, it is, exceptionally, considered appropriate to breach the 21-day rule in order provide immediate certainty to all users of the form.

3.2 The procedure for free issue has been applied and these Regulations will be issued free to all known recipients of the principal regulations.

4. Legislative Context

4.1 Section 21 of the Act currently provides a “no-fault” eviction procedure in the case of assured shorthold tenancies, whereby provided the landlord gives tenants the prescribed amount of notice, they do not need to prove any breach of a condition of the tenancy.

4.2 Section 21(8) of the Act (as inserted by section 37 of the Deregulation Act 2015) provides the Secretary of State with the power to prescribe a form for the serving of notices under section 21(1) or section 21(4) of the Act informing a tenant

that the landlord intends to seek recovery of possession of a property let on an assured shorthold tenancy.

4.3 The principal regulations, among other things, introduce a new prescribed form for the serving of notices under section 21(1) or section 21(4) of the Act.

5. Territorial Extent and Application

5.1 This instrument applies to England.

6. European Convention on Human Rights

6.1 As the instrument is subject to the negative resolution procedure and does not amend primary legislation, no statement is required.

7. Policy background

7.1 The policy background and intended effect is the same as that set out in the explanatory memorandum to the principal regulations which can be found at <http://www.legislation.gov.uk/uksi/2015/1646/memorandum/contents>.

8. Consultation outcome

8.1 Details of consultation carried out are set out in the explanatory memorandum for the principal regulations which can be found at <http://www.legislation.gov.uk/uksi/2015/1646/memorandum/contents>. Unfortunately, the error contained in paragraph 3 of the form was not picked up by the Government or consultees during consultation. However, the error was identified by one of the consultees after the principal regulations had been made and in sufficient time to allow for the error to be corrected before the form comes into use.

8.2 For the new form we consulted the same landlord bodies, tenant and leaseholder groups and the lettings and management industry as for the principal regulations: Shelter, Crisis, Generation Rent, the British Property Federation, Landlord Action, Residential Landlords Association, Association of Residential Letting Agents, Royal Institution of Chartered Surveyors, the National Landlords Association, and the National Approved Letting Scheme.

9. Guidance

9.1 Guidance is due to be published in relation to the principal regulations and it will reflect the amendments made by these Regulations.

10. Impact

10.1 The impact will be as set out in the explanatory memorandum (and impact assessment) for the principal regulations and this instrument by itself has no additional impact. The explanatory memorandum to the principal regulations can be found at <http://www.legislation.gov.uk/uksi/2015/1646/memorandum/contents>.

11. Regulating small business

11.1 This instrument has no additional impact than that set out in the explanatory memorandum to the principal regulations which can be found at <http://www.legislation.gov.uk/uksi/2015/1646/memorandum/contents>.

12. Monitoring & review

12.1 The monitoring and review arrangements which will apply to the new form are set out in the explanatory memorandum to the principal regulations which can be found at <http://www.legislation.gov.uk/uksi/2015/1646/memorandum/contents>.

13. Contact

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