

PARLIAMENTARY DEBATES

HOUSE OF COMMONS
OFFICIAL REPORT

Fourth Delegated Legislation Committee

PUBLIC HEALTH (CORONAVIRUS)
(PROTECTION FROM EVICTION) (ENGLAND)
REGULATIONS 2021

Tuesday 26 January 2021

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Saturday 30 January 2021

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The Committee consisted of the following Members:

Chair: †IAN PAISLEY

Abbott, Ms Diane (*Hackney North and Stoke Newington*) (Lab)

Andrew, Stuart (*Treasurer of Her Majesty's Household*)

Bradshaw, Mr Ben (*Exeter*) (Lab)

Burton, Richard (*Leeds East*) (Lab)

Cadbury, Ruth (*Brentford and Isleworth*) (Lab)

† Chalk, Alex (*Parliamentary Under-Secretary of State for Justice*)

Clarkson, Chris (*Heywood and Middleton*) (Con)

Cooper, Rosie (*West Lancashire*) (Lab)

† Duguid, David (*Parliamentary Under-Secretary of State for Scotland*)

Freer, Mike (*Comptroller of Her Majesty's Household*)

† Harris, Rebecca (*Lord Commissioner of Her Majesty's Treasury*)

† Lammy, Mr David (*Tottenham*) (Lab)

Morris, James (*Lord Commissioner of Her Majesty's Treasury*)

Richardson, Angela (*Guildford*) (Con)

Sambrook, Gary (*Birmingham, Northfield*) (Con)

Throup, Maggie (*Lord Commissioner of Her Majesty's Treasury*)

† Twist, Liz (*Blaydon*) (Lab)

Kevin Maddison, *Committee Clerk*

† **attended the Committee**

Fourth Delegated Legislation Committee

Tuesday 26 January 2021

[MR IAN PAISLEY *in the Chair*]

Public Health (Coronavirus) (Protection from Eviction) (England) Regulations 2021

2.30 pm

The Chair: Before we begin I would like to remind hon. Members of the social distancing rules and the other requirements with which hon. Members are, I am sure, now very familiar and are, of course, observing already. However, I also remind hon. Members that the Speaker has asked that masks be worn in Committee except when a Member is speaking. Our Hansard colleagues would like any notes that Members have to be emailed to them at hansardnotes@parliament.uk.

The Parliamentary Under-Secretary of State for Justice (Alex Chalk): I beg to move,

That the Committee has considered the Public Health (Coronavirus) (Protection from Eviction) (England) Regulations 2021 (SI 2021, No. 15).

It is a pleasure to serve under your chairmanship, Mr Paisley. The instrument before us today prevents enforcement agents—that is to say, bailiffs—from attending residential premises in England to execute a writ or warrant of possession, except in the most serious circumstances. The instrument applies to enforcement action in England and will be in force until the end of 21 February 2021.

Since the start of the pandemic, the Government have put in place unprecedented support to protect renters directly, through measures such as these regulations and by making £180 million available to local authorities in discretionary housing payments to help renters with housing costs, but also indirectly through furlough, bounce back loans and many other forms of support.

The instrument renews the restrictions on enforcement agents carrying out evictions that were in place between 17 November 2020 and 11 January 2021. It will prevent enforcement agents from giving tenants notices of eviction or from attending residential premises to enforce a writ or warrant of possession, except in the most serious circumstances. That will ensure we continue to protect public health during the national lockdown at a time when the risk of virus transmission is high, and to avoid placing additional burdens on the NHS and local authorities. The instrument continues to provide for exemptions from the ban in cases where the competing interests of preventing harm to third parties, or taking action against egregious behaviour, make an alternative course appropriate.

The exemptions are as follows: when a claim is against trespassers who are persons unknown; where the order for possession was made wholly or partly on the grounds of antisocial behaviour or nuisance, or false statements, or domestic abuse in social tenancies; for substantial rent arrears equivalent to six months' rent; or where the order for possession was made wholly or partly on the

grounds of death of the tenant, and the enforcement agent attending the property is satisfied that the property is unoccupied.

The instrument contains a requirement for the court to be satisfied that an exemption applies on a case-by-case basis. That will ensure that there is a clear, uniform and transparent process for establishing whether an exemption to the ban applies. This legislation is an extension of the previous ban on the enforcement of evictions in all but two respects. The first difference is that we have redefined “substantial rent arrears” to cover cases with rent arrears of greater than six months. The requirement in the last statutory instrument was for nine months of arrears, not including any arrears that had accrued since March 2020. We have revised the definition to balance the need to continue to protect tenants with the impact of the ongoing restrictions on landlords.

As a result of action that the Government and the courts have taken during the pandemic, we expect that most of the cases that fall within the exemption will relate to possession claims that began before the six-month stay on possession proceedings from March 2020. In those cases, landlords may have been waiting for over a year without rent being paid, and it is appropriate that they are able to seek possession in those unusual cases.

The second difference between this instrument and the one it replaces is that this instrument permits writs and warrants of restitution to be enforced. Those orders are issued in cases where a person who has been evicted from premises re-enters those premises illegally. Therefore, it is appropriate that they are excluded from the ban.

The regulations will be in place until 22 February 2021. We are keeping the provisions under review in order to ensure our approach reflects the latest available data. It is important to ensure that our approach remains proportionate, and strikes the right balance between continuing to protect tenants and ensuring that landlords are able to access justice.

It is important to note that most cases do not reach the enforcement stage, and our support for renters to remain in their homes will continue throughout the winter. As I have mentioned briefly, the Government have taken unprecedented action to protect renters. We have taken action to prevent people from getting into financial hardship by helping businesses to pay salaries—which is the most important measure to ensure that people can pay their rent—using the furlough scheme, which has been extended to April, and we have boosted the welfare safety net by billions of pounds. The Government have also made £180 million available to local authorities in discretionary housing payments to help renters with their housing costs.

We are continuing to require landlords to provide tenants with six months' notice before eviction in all but the most serious cases until the end of March, which means most renters now served with notice could stay in their homes until June 2021, with time to find alternative support or accommodation.

New court arrangements and rules are in place to ensure appropriate protections for all parties until at least the end of March, and, from early February, we will be piloting a new mediation service to support landlords and tenants to resolve disputes before a formal hearing takes place. This service will be free to use for all tenants and landlords if the duty solicitor at a review hearing thinks that the case would benefit from mediation.

During the debate on 7 December about the previous statutory instrument concern was raised that the Government had not gone further to protect renters by preventing possession claims from being made and heard in the courts. The six-month stay on possession proceedings introduced at the start of the pandemic could only ever be temporary. It is important, of course, to distinguish between claims and enforcement.

The new court rules and processes, introduced in September to respond to the pandemic, remain in place and will be regularly reviewed. Those include the requirement for cases from before 3 August 2020 to be reactivated by the landlord and then be subject to a new review hearing at least four weeks before the substantive hearing. The deadline to reactivate will be extended to the end of April 2021. The new court rules and processes also include the need for landlords to provide the courts and judges with information on how tenants have been affected by the pandemic; where this information is not provided, judges will be able to adjourn proceedings until it has been provided.

A further requirement is for all enforcement agents to provide a minimum of 14 days' notice before enforcing an eviction in most cases. We have also introduced a new review stage at least 28 days before the substantive hearing, so that tenants can access legal advice. New Government guidance has also been published to help landlords and tenants in England and Wales understand the possession action process and new rules within the court system.

Our approach strikes the right balance between prioritising public health and supporting the most vulnerable renters, while ensuring that landlords can access and exercise their right to justice; landlords can action possession claims through the courts, but evictions will not be enforced, apart from in the most serious cases.

The instrument provides tenants with protection from eviction, ensuring that vulnerable tenants are not forced from their homes during the current national lockdown restrictions. This is intended to protect public health at a time when the risk of virus transmission is high, and to avoid placing additional burdens on the NHS and local authorities. I commend the regulations to the Committee.

2.37 pm

Mr David Lammy (Tottenham) (Lab): Mr Paisley,

"no one should lose their home as a result of the coronavirus epidemic."

So said the Government's Secretary of State for Housing, Communities and Local Government, the right hon. Member for Newark (Robert Jenrick), last March. It was an honourable sentiment, which rightly enjoyed the support of those on both sides of this House. Unfortunately, in the months since, we have witnessed the Government's promise be broken again and again.

Between the start of April and the end of November 2020, 207,543 households approached their local councils for help with homelessness or the threat of homelessness. Of those, 50,561 were judged to be threatened with homelessness; 70,309 were already homeless. Ministry of Justice statistics show no possessions were recorded between April and September, but clearly those numbers are hiding the reality on our streets. Most people leave their homes before their case ever gets to court, let alone wait for a bailiff.

A dangerous cocktail of illegal evictions, tenants put under pressure to leave before eviction, and pressure on lodgers—who have never had protection—has meant that hundreds of thousands have faced the indignity of the threat of homelessness.

Why does the Minister think it is right to allow tenants to be kicked out for arrears that they have built up since the start of the pandemic? This breaks the Housing Secretary's promise. Why does the Minister think it is right to extend the ban on evictions only to 21 February, when we know that restrictions on our liberty, lives and work will go on for much longer than that? That breaks the Housing Secretary's promise. Why does the Minister think that there is a difference in seriousness between this lockdown and March's lockdown, when his Government put in place a clear ban on evictions? That again breaks the Housing Secretary's promise.

Instead of creating another cliff edge just a few weeks away, we need a package of support for renters and home owners to ensure that nobody loses their home because of the pandemic. It is time to extend the ban on evictions and repossessions, extend mortgage holidays, make the six-month notice period that will soon come to an end permanent, raise the local housing allowance to cover median market rates, reform housing law to end automatic evictions through the courts, reduce the waiting period to receive support for mortgage interest payments, retain the £20 uplift to universal credit, end the five-week wait and suspend the benefits cap.

People are facing the biggest crisis of a generation because of this Government's incompetent management of the pandemic. The last thing they need now is to lose their homes. Labour will not oppose the regulations today, because any extension to the eviction ban is better than none, but we will not vote for them either, because we are urging the Government to go further—to stick to their promises and not let anyone else lose their home.

2.41 pm

Alex Chalk: I thank the right hon. Gentleman for his representations. It is important to be clear: to pick up one of his points, if there are individuals who have been unlawfully evicted, let the message go out that that is a criminal offence punishable by imprisonment. We expect action to be taken in those appalling cases. The legislation is there; it has been there since 1977. Local authorities are well placed to take action and I hope they do precisely that.

The right hon. Gentleman made a number of criticisms. I hope he will take into account that, for those who are potentially at risk of eviction, under these measures, there will be a six-month notice before that takes place. That is far in excess of anything that existed prior to the pandemic under this Government or indeed under the Government he served in.

Ultimately, we have to strike an important balance. Prior to this measure, some landlords might have been in a situation where their tenant was in arrears to the tune of eight months or so, but they had no ability to take possession of their property. Such cases are vanishingly rare, but in those rare cases, it is appropriate that scope for action exists.

These regulations are intended to strike the balance. We are there to support tenants with measures such as furlough, bounce back loans and self-employed income

[Alex Chalk]

support, to pay their rent. Happily, recent surveys show that more than 93% of tenants are doing precisely that. For those who are not doing so or are unable to negotiate rent reductions or even rent pauses, in those very rare cases—I stress that it is a small minority of cases—it is important and proportionate that there is a remedy.

I also want to stress the enormous sums of money that have gone into supporting local authorities—£4 billion—and into supporting discretionary housing allowance. The regulations strike the right balance. They are on the side of renters. I commend them to the Committee.

Question put and agreed to.

2.43 pm

Committee rose.