

## **Homes Fitness for Human Habitation Act 2019**

### **What is the Homes Fitness for Human Habitation Act?**

The Act applies to both social and private rented landlords alike and sets out standards that landlords must meet to ensure that all parts of the property they rent out is fit for human habitation.

This means that landlords need to make sure that their property is free from hazards which are so serious that the dwelling is not 'reasonably suitable' for occupation.

Most landlords already provide safe, warm and secure homes but where a landlord fails to meet the standards set, the tenant has the right to take action in the courts for breach of contract on the grounds that the property is unfit for human habitation.

Using the Act tenants will be able to apply for an order by the court requiring the landlord to remedy the problem, and/or claim damages to compensate them for having to live in a property which was not fit.

### **Who will the Act apply to?**

Private and Social tenants, with tenancies that are:

- shorter than 7 years that are granted on or after 20 March 2019
- new secure, assured and introductory tenancies (on or after 20 March 2019)
- tenancies renewed for a fixed term (on or after 20 March 2019)

From the 20 March 2020 the Act will also apply to all periodic tenancies, even where the tenancy started before 20 March 2019.

### **Who will the Act not apply to?**

People who have 'licences to occupy', instead of tenancy agreements; i.e. lodgers (people who live with their landlord), people who live in temporary accommodation, and property guardians might not be covered. If you are unsure if you are covered by the Act you can contact the Local Authority, CAB or Shelter for advice.

This document was last amended in July 2019 and was considered accurate at that time. Changes to legislation which occurred after this date will not be reflected in the content. This document should not be considered comprehensive, nor should it take the place of legal advice where this is required.

## Are there any exceptions?

The landlord will not be required to remedy unfitness when:

- the problem is caused by tenant behaviour
- the problem is caused by events like fires, storms and floods which are completely beyond the landlord's control (sometimes called 'acts of God')
- the problem is caused by the tenants' own possessions
- the landlord hasn't been able to get consent e.g. planning permission, permission from freeholders etc. There must be evidence of reasonable efforts to gain permission
- the tenant is not an individual, e.g. local authorities, national parks, housing associations, educational institutions

## When would a building not be considered 'Fit for Human Habitation'?

A building would be considered as unfit where it contains any of the Hazards as set out in [Housing Health and Safety \(England\) Regulations 2005](#):

- the building has been neglected and is in a bad condition
- the building is unstable
- there's a serious problem with damp
- it has an unsafe layout
- there's not enough natural light
- there's not enough ventilation
- there is a problem with the supply of hot and cold water
- there are problems with the drainage or the lavatories
- it's difficult to prepare and cook food or wash up

The courts will need to decide that these criteria are met, they can choose to request expert evidence but can also make a decision without this depending on the nature of the complaint.

**Please note:** If you think the property you live in is unsafe, or your landlord is not doing repairs, you can contact the local Council. The Council can give you advice or use powers to ask the landlord to do the works they are responsible for.

# **What should I do if I want to use the Homes Fitness for Human Habitation Act?**

The Gov.UK website has some easy to follow guidance on what you should do if you use the Act;

go to <https://www.gov.uk/government/publications/homes-fitness-for-human-habitation-act-2018/guide-for-tenants-homes-fitness-for-human-habitation-act-2018#what-do-i-need-to-do> or see summary below: -

## **Check if the way you rent your house or flat is covered by the Homes Act.**

Make sure that the property you rent, and your tenancy, are covered by the Act. If in doubt you can seek advice from the Private Rented Service Newcastle, CAB, Shelter or seek other legal advice.

## **Identify what the problem is.**

Is it one of the following?

- the building has been neglected and is in a bad condition
- the building is unstable
- there's a serious problem with damp
- it has an unsafe layout
- there's not enough natural light
- there's not enough ventilation
- there is a problem with the supply of hot and cold water
- there are problems with the drainage or the lavatories
- it's difficult to prepare and cook food or wash up
- The building contains one of the 29 Hazards outlined by the Health and Housing Safety Rating System

## **Is the problem so bad that it makes your house or flat not fit to live in**

If you do go to court, you will be asked to explain to the judge why the property is not fit to live in, and your landlord will be allowed to explain why he or she doesn't think that this is the case.

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## **Check if there might be a reason why your landlord won't have to help**

Has this problem arisen due to:

- you or another tenant acting irresponsibly or illegally
- faults with your own possessions;
- events such as fires, storms and floods which are completely beyond the landlord's control (sometimes called 'acts of God')?

Or is the landlord / leaseholder:

- unable to get permission from someone who owns the building, or to get planning permission to carry out work? You can ask to see evidence that your landlord has applied for permission.

If any of these are true, you may not be able to use the Homes Act.

## **If you have not already told your landlord, tell them now.**

It is your responsibility to inform your landlord of any repairs that occur during the tenancy, if you have not already told your landlord, you should do that immediately.

You should write to your landlord to request for the problem to be fixed (this includes by email or text, keep a copy of all correspondence). You should allow your landlord a reasonable amount of time to fix the problem.

## **Fixing the problem in a reasonable time**

Your landlord has a duty to repair any problems in your home in a reasonable amount of time. This amount of time will depend on what the problem is and how serious it is. If you think your landlord has taken too long to fix a problem that makes the house or flat unfit, you can choose to contact the Council for help or progress using the Act.

## **Using the Homes Fitness for Habitation Act**

1. You will need to write to your landlord again asking them to solve the problem. You should do this in writing by email or letter. If you go to court, you will need to show that you tried to sort out the problem with your landlord first. If you have a letting agent, send the letter or email to them too.
2. Your letter or email should state what needs putting right, when you reported it and if you had to report it more than once, as well as any problems you have had

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because of the state of your home – for example if it has made a physical or mental health condition worse.

3. Keep a copy of the letter and any reply you get. Your landlord might offer to make repairs or come to an agreement.
4. You will need to apply to the court; go to <https://www.gov.uk/government/publications/small-claims-track-fast-track-and-multi-track-ex305-and-ex306> for more information about the court process. For smaller claims, you need to print and fill in form N1.
5. Gather your evidence ready for the court; this can include:
  - a copy of letters or emails you sent to your landlord or letting agent
  - photographs
  - a doctor's note setting out any mental or physical health problems that have been caused or made worse by your home being 'unfit for human habitation'
  - receipts of items you have had to replace, for example wallpaper that has been damaged by mould, or carpets suffering water damage from a faulty pipe
  - a copy of your tenancy agreement if you have one, or proof you are paying rent to your landlord
  - a report from any experts you have paid to look at the problem. Their evidence can help to strengthen your claim.

NB: This is optional and examples include electricians or the environmental health department of your local council. If your local council's environmental health department, or your council's estates team, have already inspected, they might have provided a report.
6. Send this evidence in with your N1 form, but you should keep copies of it.
7. You will need to send 3 copies to your local county court. You will have to pay a fee with your court form, and you will get this back if you win your case.

8. Once you have sent the form, the court will send you paperwork and a date for your hearing. You will need to send a copy of the paperwork to your landlord or letting agent.
  
9. You will have to go to the court hearing, if you want to you can take someone with you for support.

The court will look at the evidence you and your landlord have supplied.

If the judge accepts that an unfit property has been rented out, he or she may order the landlord to improve conditions in the property. They may also make your landlord pay you compensation. There is no fixed limit on how much may be awarded and this will be judged by the court depending on the facts such as how bad the problem is, the mental or physical health problems it has caused and the length of time the problem has existed for. The court may also order your landlord to pay some or all of your legal costs.

If you don't win in court you can still contact your local council for help with the problem in your home.