

In all the 'excitement' of Brexit over recent months, you would be forgiven for missing a recent and important new piece of legislation relating to let property, which came into force last March.

'The Homes (Fitness for Human Habitation) Act 2018' received Royal Assent on 20 December 2018 and has amended the Landlord and Tenant Act 1985. It requires that any property let by a landlord is fit for human habitation when a tenancy is granted and remains so for the duration of the term. The new legislation will apply to new tenancies (of less than seven years), including a renewal of an existing tenancy from then. The Act will also apply to a tenancy which was a fixed term tenancy and became periodic (i.e. month to month), on or after 20 March 2019.

The main provision the Act introduces is: '...there is implied a covenant by the landlord that the dwelling:

- (a) is fit for human habitation at the time the lease is granted or otherwise created or, if later, at the beginning of the term of the lease, and
- (b) will remain fit for human habitation during the term of the lease.'

The definition of whether a property is deemed to be 'unfit' or not has been amended under the 2018 Act from previous wording, and now refers to a number of "prescribed hazards". As from the 20 March 2019, the following matters are some of those listed as a "prescribed hazard":

- Damp or mould growth;
- Asbestos;
- Domestic hygiene – pests and refuse;
- Personal hygiene, sanitation and drainage.

The one we are likely to see in let cottages on the farms and estates that we manage is that of damp and mould growth, particularly where the properties are old and have limited damp-proof provisions. It will be interesting to see, in the fullness of time, how the courts interpret at what point the hazard exists and whether it is so defective that the dwelling is deemed unsuitable for occupation. As long as common sense prevails there should



## IS YOUR LET PROPERTY FIT FOR HUMAN HABITATION?

not be a problem but there are certain aspects that are totally in the hands of the occupant and how they live in the property. The main one being condensation and mould growth. This is an issue that is generally created as a result of the way a tenant uses the property, an example of which is where a tenant has isolated the extractor fans, provided to remove moist air, and then complained of mould growth in the same area. Issues can also arise when the trickle vents in double glazed windows are all closed, which effectively 'seals up' the room and prevents moist air from escaping.

Another related aspect is that of the heating within a property. There may be a boiler and heating system provided within the property which is functioning properly (with a gas safety certificate in place, if applicable), but the tenant may choose not to have the heating on, or to only have the heating on very low. This may be due to hardship or preference to spend money 'elsewhere', but for

whatever reason, it would surely be unreasonable to accuse the landlord of dampness within the property caused by a lack of heating?

It is likely that the manner in which these issues will be resolved is through the serving of Notices, as for disrepair. A notice will be served allowing a reasonable time for the remedial works to be carried out. With regards to damages, this will be for the courts to decide. However, should a tenant report damp, mould or any other problem with the property, this new Act is another piece of legislation in favour of tenants and their complaints should not be ignored and the matter should be fully investigated.

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