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Legal Update

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So Much Change!

- Lot of changes through 2018
 - Deregulation Act changes to s21 fully in force
 - HMO licensing extension
 - Room size limits on HMOs
- More in 2019
 - EPC changes
 - Tenant Fees
 - CMP
- Continuing into 2020
 - End of s21

- Key element of Deregulation Act changes affects GSCs
- The Dereg Act says that you must have complied with GSC requirements to serve an s21
 - That means serving an s21 before the tenant occupied the property
- Not what was intended by government
 - But leads to an impossible situation for a minor error
- Likely to be decided now by the CoA
 - In *Trecarrel House Ltd v Rouncefield*
 - But not for a while yet!

- Civil penalty regime well in force
- Some decisions going through to FTT now
- Guidance from the UT is likely to appear soon
- Tenants are becoming more interested in RROs
 - There are specific companies being set up to help them pursue these
 - So a cottage industry in enforcement is likely to appear
- This will backfill some local authority gaps
 - But undermines the local authority discretion not to prosecute

- Some local authorities are struggling with substantial licensing backlogs
 - As a result of mandatory licensing changes
 - This causes issues as a result of *Gaskin* decision and tacit approval
- Local authorities also struggling with *Gaskin* and fees
 - Some attempts to resolve this may not be lawful!
- Licensing standards also continue to be a problem
 - Lots of authorities are using local guidance as a standard
 - Which they cannot do!

- High Court has ruled that the Right to Rent scheme is unlawful
- Home Office is appealing to the CoA
 - And probably on....forever!
- At the current time nothing changes
 - Landlords must still do checks
- New guidance coming on EEA nationals
 - Basically nothing will change until 2021
 - Landlords will not need to concern themselves with settled status etc
- Home Office is moving to a new electronic system
 - Which will allow landlords and agents to be given a code to access a tenant page showing Right to Rent status etc

- EPCs with F and G ratings were already not allowed to be let out
- However, landlords were not liable if they could not get no cost improvements done
 - With effective end of Green Deal this meant that almost everyone was exempt
- However, from 1 April 2019 this exemption no longer exists
- Landlords must now spend up to a maximum of £3,500 (inc VAT)
 - Unless no work can be done for that price
 - But if some work can be done then it must be done
- Must register on gov website to claim the exemption
 - With three quotes showing cost over £3,500

- Letting agents who keep client funds as a business must now have CMP
 - Cover must extend to all funds held for clients
 - But not to funds already protected by deposit schemes
- Good for tenants, but especially landlords
- However, no good if not enforced
 - Enforced by local authorities
 - But how much will they really do so?
- Movement towards greater professionalisation of agents
 - But also drives up cost at a sensitive time

- From 1 June fees to tenants are unlawful
- Very hard to get around
 - But fees are allowed if they are genuinely optional
 - And rent uplifts are probably allowed
- Problems with fixed sums for specific breaches
 - Intention was to ban these except for rent arrears and keys
 - But legislation is less than clear
 - And the guidance is very confused on this topic
- Note the transition period
 - Existing tenancy fees are fine until renewal
 - This may mean deposits being reduced on renewal

Section 21- What is happening?

- Longer tenancies consultation response
 - But no Housing Court consultation response
 - Yet!
- But before that
 - The Big Announcement!
- Annoyingly, not discussed
 - Flagged to stakeholders late on Friday
 - Publicly released midnight Monday

What's Announced so Far

- A further consultation
- On ending s21
- How that might be done
- Including
 - Ending s21
 - Court reform
 - Section 8 grounds reform

- What does this mean?
 - It's a little unclear
- There is a planned possession reform programme anyway
 - So is this a further reform?
 - Or the existing one re-packaged
- What other reforms are possible?
 - Will funding be provided for this?

- Announcement suggested grounds for moving back in and sale
 - But moving back in is a ground
- A more ambitious reform programme would be better
 - Fewer traps and odd restrictions on grounds
 - Notice requirements
 - Better structure for rent arrears
 - Smaller arrears but shorter notice perhaps?
 - More useful ASB grounds
 - Could some grounds be removed or brought together

What's Next?

- Another consultation
 - Possibly more than one
- Select committees might try to get involved
- Ultimately a Bill before Parliament
- Timeline is not all that soon
 - Brexit may get in the way
- But there will be a drive to get there before the next election
 - So late 2020 is likely

Possible problems

- Trust in an integrated reform programme
- Genuine shorter tenancy needs
 - Student lets, for example
- Retaining the confidence of lenders
- Will some landlords just walk away?
- What about risky tenants?
- Will tenants want more?
 - Already talk of rent control
- What if this doesn't solve the problems?
 - Realistically only more housing can do this

