RETALIATORY EVICTION

DEREGULATION ACT 2015
AIMS OF GOVERNEMENT

• The government wants a larger more professional private rented sector
• Tackle rogue or criminal landlords who knowingly let unsafe substandard accommodation
• To introduce fairness for landlords to make the eviction process more straightforward
RETALIATORY EVICTION

• If tenants make legitimate complaints about the conditions of their property government wants them to be protected against ‘retaliatory eviction.’

• Retaliatory eviction occurs when in response to a legitimate complaint about a repair a landlord serves notice of intention to evict
Tenants Protections

• The protections introduced by the Deregulation Act 2015 apply to assured short hold tenancies entered into on or after 1 October 2015

• If a genuine complaint about the condition of the property is made and not addressed by a landlord and verified by a local council inspection and the local council has served an improvement notice or notice of emergency remedial action, a landlord cannot evict that tenant for 6 months using the ‘no fault’ eviction procedure (i.e. a section 21 notice)
Additional requirements for landlords

• The landlord is also required to show that the repairs are completed
• These rules give tenants greater security but also make eviction more straightforward where eviction is permitted
• The rules apply to tenants complaints that concern a serious issue that might cause potential risk of harm to the health or safety of the tenant or a family member e.g. leaks, heating problems especially in the cold weather: minor repairs such as changing light bulbs or a dripping tap are not covered
Additional requirements for landlords

• Landlords in the main deal with these repairs promptly: the legislation seeks to deal with those who fail to make the repairs and then attempt to evict the tenant in response to the complaint

• The Deregulation Act 2015 can be found at http://www.legislation.gov.uk/ukpga/2015/20/contents/enacted
Additional requirements for landlords

• Information landlord must provide for a new tenancy which begins on or after 1 October 2015?

• A valid Energy Performance Certificate. An Energy Performance Certificate (EPC) contains information about how much it will cost to heat the property. It also offers recommendations about how to reduce energy costs and save money.

• A valid annual Gas Safety Certificate. A Gas Safety Certificate is proof that the gas appliance has been checked by a Gas Safe registered engineer. Each gas appliance must be checked and certified each year.
Additional requirements for landlords

• A copy of “How to rent: the checklist for renting in England” guide. This can be provided in electronic format as a pdf if the tenant has notified the landlord, or a person acting on behalf of the landlord, of an e-mail address at which the tenant is content to accept service of notices and other documents given under or in connection with the tenancy. Otherwise, the guide should be supplied in paper copy.
How to Rent

• This is a short booklet that gives tenants key details about their rights, and what they should expect from private renting. It also gives information about what to do if there is a problem during the tenancy. From 1 October 2015 it is a new requirement that every landlord must give a copy of this document to their tenant. It is recommend that this should be given at the start of a new tenancy. This guide is accessible for free at https://www.gov.uk/government/publications/how-to-rent
Additional requirements for landlords

• The landlord is still required to provide mandatory information required by other legislation, including relevant tenancy deposit protection information.

• The landlord should supply these documents at the start of each new tenant or as soon as possible thereafter. If the documents have not been supplied a landlord cannot serve a section 21 notice but once they are supplied the restriction is removed.
New standard form for section 21 eviction notices

• There is now a standard form (Form 6a) that must be used for section 21 notices. It must be used for all tenancies created on or after 1/10/15 - see the link below: https://www.gov.uk/government/publications/notice-seeking-possession-of-a-property-let-on-an-assured-shorthold-tenancy.
New standard form for section 21 eviction notices

• In order to use this form the landlord must have provided the mandatory information that is set out above. The landlord must also have complied with the tenancy deposit protection legislation.

• This form cannot be served within the first four months of a tenancy, and the form is valid for six months following the date of its issue.
How long do landlords have to respond to complaints?

- Landlords have 14 days from the date of the tenant’s complaint to make a response. Their response should set out what they intend to do to remedy the problem and include a reasonable timeframe for carrying out the works.

- The landlord should then make arrangements to carry out the repair. In the vast majority of cases this will be the end of the matter.
Complaints process tenants

• Tenants should always report any disrepair or poor conditions that may arise to the landlord as soon as possible. They should put their complaint in writing. In order to rely on the protection against retaliatory eviction that the Deregulation Act 2015 provides, a tenant must approach the landlord in the first instance.

• If, after 14 days from the tenant making a complaint, the landlord does not reply, that reply is inadequate, or they respond by issuing a section 21 eviction notice, the tenant should approach their local authority and ask them to step in and carry out an inspection to verify the need for a repair.
Complaints process tenants

• The Local Authority will arrange to inspect the property. They will conduct a thorough check. There is a detailed assessment method (known as the Housing Health and Safety Rating System) that has been developed to help Local Authorities verify whether a property contains serious health or safety hazards.

• If the inspection verifies the tenant’s complaint, the inspector will take appropriate action. There are a number of enforcements options open to Local Authorities, including Improvement Notices and Notices of Emergency Remedial Action, but they will almost always engage with the landlord first, in order to try and resolve the problem informally. If the local authority serves an Improvement Notice or Notice of Emergency Remedial Action, the landlord cannot evict the tenant for 6 months using the no-fault eviction procedure.
Complaints Process

1. **Tenant makes a complaint to the landlord**
   - **The landlord must respond to the tenant's complaint within 14 days and describe the action they will take to fix the problem.**
   - **The landlord carries out a satisfactory repair within a reasonable time. This is the end of the matter.**
   - **If the landlord does not respond, the response is inadequate, or the landlord responds by issuing an eviction notice, the tenant should approach their Local Authority and request an inspection to validate the need for a repair.**
     - **If the Local Authority verifies the need for a repair and serves a relevant notice, the protection against retaliatory eviction applies and the landlord is not permitted to evict the tenant for a period of 6 months.**
     - **The landlord carries out the repair.**
References

• DCLG Guidance – Retaliatory Eviction and the Deregulation Act 2015 Guidance Note