



Residential landlords take note

From October 2014, residential landlords who fail to check if their tenants have the right to live in the UK, before renting out their property, will face the prospect of fines.

Who is affected?

The new obligation will cover most residential lettings as it applies to any landlord who agrees to or grants a “residential tenancy agreement” (RTA). An RTA is a lease or licence which grants a right of occupation of premises for residential use (with or without another use) and for which rent is paid.

Many farmers, landowners and estates will be caught by these rules although as the next section makes clear there is an exemption for employment related accommodation. This means that RTAs to farm and estate workers are likely to be exempt whilst lettings to non workers will be subject to these new rules.

Exemptions

There is no obligation to carry out immigration checks in the following circumstances:

- accommodation provided by an employer to an employee in connection with their contract of employment;
- care homes which provide accommodation and nursing for people who are ill, have a mental disorder, are disabled or are dependent on drugs or alcohol;
- mobile homes on land where a site licence is required;
- social housing provided by a local housing authority, district council, borough council or county council or any other accommodation involving a local authority;
- accommodation provided by a body providing training in a trade, profession or vocation to an individual in connection with that training;
- student accommodation in halls of residence, or a property used mainly for the accommodation of students, which is owned or managed by an educational institution or a charity.

What about letting agencies?

If a landlord lets properties through a letting agency, the obligations (and fines that can be imposed - see below) will apply to the agency, not the landlord.

What will landlords and their agents need to do?

Before entering into an RTA, landlords need to check the immigration status of all new tenants to make sure they have permission to live in the UK. Checks will also need to be carried out on adults who the landlord knows will be living at the property even if they are not named on the RTA.

If the landlord rents a property to a person who only has a temporary right to live in the UK (such as a student or a sponsored worker), the landlord will need to recheck their immigration status when that temporary right expires.

Checks should be carried out on **all** tenants and occupiers to avoid any claims of race discrimination.

How can landlords check a person's immigration status?

The Home Office is planning to create an online tool which you can use to check whether someone has permission to live in the UK. They will also provide a free telephone enquiry line and an email service.

The government will also publish a draft code of practice on the gov.uk website this summer which will set out guidance for landlords.

What about existing tenants?

The rules will apply only to new tenancies entered into after a date in October 2014 (yet to be confirmed). The new rules will not have any effect on tenancies entered before that date, even when those tenancies are subsequently renewed.

What happens if a landlord or agent gets it wrong?

If a landlord does not carry out the necessary checks or if the landlord rents property to someone when they know that the person does not have a right to live in UK, the landlord could be fined up to £3,000 per person.

If an agent lets property on behalf of a landlord and does not carry out the checks, they will be responsible for paying the fine. Landlords will want to ensure that the agent cannot claim reimbursement of any fine under the terms of the letting agency agreement.

What steps do landlords and agents need to take?

Landlords and letting agents should:

- put in place policies to ensure that the immigration status of any tenant and/ or other occupier of residential property is correctly checked before any RTA is entered into;
- ensure that dates when immigration clearance for a tenant expires are identified and further checks taken before those expiry dates;

Contact

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