

EXPLANATORY MEMORANDUM TO
THE ASSURED TENANCIES AND AGRICULTURAL OCCUPANCIES (FORMS)
(ENGLAND) (AMENDMENT) AND SUSPENSION (CORONAVIRUS)
REGULATIONS 2020

2020 No. 924

1. Introduction

- 1.1 This explanatory memorandum has been prepared by the Ministry of Housing Communities and Local Government and is laid before Parliament by Command of Her Majesty.
- 1.2 This memorandum contains information for the Joint Committee on Statutory Instruments.

2. Purpose of the instrument

- 2.1 This instrument suspends paragraph 12(2) of Schedule 29 to the Coronavirus Act 2020 (Schedule 29), which modifies prescribed Form No.6a (notice of intention to seek possession under section 21 Housing Act 1988). This instrument amends the Assured Tenancies and Agricultural Occupancy (Forms)(England) (Amendment) Regulations 2015 to prescribe a new Form No.6a notice. The changes are made to ensure that the prescribed notice aligns with the corresponding provisions of Schedule 29 as to the notice periods to be given under section 21 Housing Act 1988 and the date by which proceedings must be commenced after the date of issue of such notice.

3. Matters of special interest to Parliament.

Matters of special interest to the Joint Committee on Statutory Instruments

- 3.1 This instrument is subject to the negative resolution procedure and comes into force on 2nd September. It is laid only one day before commencement.
- 3.2 While the Ministry acknowledges the general desirability of observing the “21-day rule”, this instrument needs to be laid so that it can come into force on 2nd September, so that the prescribed forms of notice are accurate. This is to correct a lacuna in the Coronavirus Act 2020 (Residential Tenancies: Protection from eviction)((Amendment)(England) Regulations 2020 which was identified after it had been made.

Matters relevant to Standing Orders Nos. 83P and 83T of the Standing Orders of the House of Commons relating to Public Business (English Votes for English Laws)

- 3.3 As the instrument is subject to the negative resolution procedure there are no matters relevant to Standing Orders Nos. 83P and 83T of the Standing Orders of the House of Commons relating to Public Business at this stage.

4. Extent and Territorial Application

- 4.1 The territorial extent of this instrument is England and Wales.
- 4.2 The territorial application of this instrument is England

5. European Convention on Human Rights

5.1 The Minister of State for Housing has made the following statement regarding Human Rights:

“In my view the provisions of the Coronavirus Act 2020 (Residential Tenancies: Protection from Eviction) (Amendment) (England) Regulations 2020 are compatible with the Convention rights.”

6. Legislative Context

6.1 The Coronavirus Act 2020 (Residential Tenancies: Protection from Eviction) (Amendment) (England) Regulations 2020 were laid on 28th August 2020 and came into effect on 29th August 2020. This extended provisions in Schedule 29 of the Coronavirus Act 2020, which included a provision lengthening the amount of time a landlord has between serving the notice under section 21 of the Housing Act 1988 and issuing proceedings for possession relying on that notice. The Regulations did not make provision for this change to be made to the prescribed forms, and so this instrument will correct this by prescribing a new form of notice

7. Policy background

7.1 The measures in Schedule 29 to the Coronavirus Act were introduced in March 2020, to delay when landlords could evict tenants by requiring a longer period of notice to be served, in response to coronavirus. It did this by requiring landlords in both the social and private rental sectors to provide more time when serving notices of their intent to possess property, ensuring that in almost all circumstances they must give renters with tenancies at least three months’ notice.

7.2 On 28th August 2020, the Government laid the Coronavirus Act 2020 (Residential Tenancies: Protection from Eviction) (Amendment) (England) Regulations 2020, which extended these provisions in several ways. One of these provisions was to extend the length of period in which a notice under section 21 of the Housing Act 1988 is valid for, after service. Previously this had been for six months from the date of service. The Regulations amended this to ten months, to provide additional time in light of the change in notice period to six months.

7.3 The Regulations did not make provision for this change to be made to the prescribed forms, and so this instrument will correct this by prescribing a new form of notice.

7.4 A further instrument amending form No.6a will be laid when the provisions as to notice made by Schedule 29 expire.

8. European Union (Withdrawal) Act/Withdrawal of the United Kingdom from the European Union

8.1 This instrument does not relate to withdrawal from the European Union / trigger the statement requirements under the European Union (Withdrawal) Act

9. Consolidation

9.1 There are no plans to consolidate.

10. Consultation outcome

10.1 It is not necessary to consult stakeholders on this issue.

11. Guidance

- 11.1 The Government has published public guidance¹ on the measures in the Coronavirus Act in March 2020. This is for tenants, landlords and local authorities, and sets out what changes were brought in by the Coronavirus Act and how this affects the rights and responsibilities of the key parties.

12. Impact

- 12.1 There is no significant impact on voluntary bodies.
- 12.2 This instrument will apply to landlords that are charities (where they issue tenancies), such as housing association charities, Local Authorities where they provide social housing or operate as a Local Authority Housing Company, and landlords who operate as small businesses. It will update the prescribed forms so that they contain the correct information and will therefore benefit these groups.
- 12.3 This is a temporary measure lasting less than 12 months as part of the Government's Coronavirus emergency response and so requirements for a formal Regulatory Impact Assessment do not apply.

13. Regulating small business

- 13.1 The legislation applies to activities that may be undertaken by small businesses such as landlords. The intention of this instrument is to ensure that the prescribed forms of notice are correct. Given this no specific action is proposed.

14. Monitoring & review

- 14.1 This instrument will be reviewed in line with any steps taken for the Coronavirus Act 2020 (Residential Tenancies: Protection from Eviction) (Amendment) (England) Regulations 2020.

15. Contact

- 15.1 Eleanor Millington at the Ministry of Housing, Communities and Local Government Telephone: 0303 444 2395 or email: Eleanor.millington@communities.gov.uk can be contacted with any queries regarding the instrument.
- 15.2 Stephanie Kvam, Deputy Director for the Private Rented Sector, at the Ministry of Housing, Communities and Local Government can confirm that this Explanatory Memorandum meets the required standard.
- 15.3 Christopher Pincher, Minister of State for Housing at the Ministry of Housing, Communities and Local Government can confirm that this Explanatory Memorandum meets the required standard.

¹ <https://www.gov.uk/government/publications/covid-19-and-renting-guidance-for-landlords-tenants-and-local-authorities>