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AST THRESHOLD CHANGES Q&A



1. What is the 'AST Threshold' and why does it matter?

Legislation associated with the Housing Act 1988 currently states that tenancies formed with annual aggregate rent greater than £25,000 cannot be ASTs. These tenancies are formed on a contractual basis and are sometimes referred to as 'non-Housing Act' tenancies. Tenancy terms are negotiated and agreed by the landlord and tenant and are not enshrined by statute.

This change has been expected for some time. However, what was not expected is that the change **will have a retrospective element**.

Figures are unclear about how many tenancies will be affected by this change, there is no definitive record of how many tenancies exist in this category. Although using CLG statistics the figure may be in the region of 10,000 tenancies.

2. What does this mean for landlords?

All new tenancies formed with aggregate rents of £25k to £100k pa will default to AST status. Landlords and tenants will no longer be able to negotiate individual terms for their tenancy. This means that all of the rights and responsibilities associated with the Housing Act 1988 will be extended to higher rent properties.

Crucially this will also be applied **to existing tenancies**. Any tenancy with annual rent between £25k and £100k in existence on 1 October 2010 will become an AST overnight (provided that there is no other relevant exemption).

3. Does that mean I need to protect my tenants' deposits?

Yes. The most obvious impact of this change will be that landlords must have protected any deposits held in respect of the tenancies. If they have not done so they will be in breach of TDP legislation.

4. Can the Government do this?

Yes. Although it is unlikely that the Government intended to apply the regulations retrospectively, A procedural matter with the original legislation means that there are no arrangements allowing the threshold to change without retrospective application. As such guidance is being prepared with the Ministry of Justice to head off unjustified prosecutions.

5. Why is the threshold changing?

The original threshold was introduced in order to exclude 'luxury lets', however the limit was established in 1990 and has not been revisited to take account of inflation since.

The Government consulted as a result of a Rugg Review recommendation and decided to increase the threshold to £100,000 as a result. This figure will subsequently be reviewed at five yearly intervals.

The Government have taken the view that the threshold should reflect changes in market rents and to ensure minimum requirements in tenancy agreements are met. The changes should also improve transparency in the letting market.

For further information, please go to www.landlords.org.uk/campaigning or contact the NLA Campaigns Team at policy@landlords.org.uk

Representing landlords from all over the UK, the National Landlords Association (NLA) is the leading organisation for private-residential landlords. It campaigns for the legitimate interests of landlords by seeking to influence decision-makers at all levels of government and by making landlords' collective voice heard in the media. The NLA helps landlords make a success of their lettings business by providing a wide range of information, advice and services. It seeks to raise standards in the private-rented sector while aiming to ensure that landlords are aware of their statutory rights and responsibilities.

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