

# Brexit and the PRS



**Jason Hunter**, partner and head of property litigation at Russell-Cooke, comments

Although it's little over a month since the population voted to sever the ties between the UK and the EU, uncertainty has gripped the property industry. Brexit has the potential to impact property up and down the country, and the Private Rented Sector (PRS) won't be immune to change either.

The PRS has become an increasingly essential part of the UK's housing provision, and within this sector, it is the Assured Shorthold Tenancy (AST) that is key.

The AST has already faced considerable change since its inception. This was intended to give landlords and tenants a simple way to create a non-permanent relationship; it doesn't offer the tenant security of tenure but does at least provide basic entitlements with regard to when and how possession of the property could be recovered.

The AST was simplified in 1997, but the Housing Act 2004, Deregulation Act 2015 and the Immigration Act 2014 complicated it again. They imposed greater regulation around who can enter into a tenancy and how the agreement can be terminated. With Brexit on the horizon, could this regulation be rolled back or, on the other hand, extended?

A landlord seeking to recover possession of a property let on an AST has to serve a notice giving at least two months' notice of the intention to do so. This notice has to meet a number of conditions to be valid. The Energy Performance Certificate (EPC), which was created under the influence of Brussels, is one such condition. Could this requirement be relaxed? Such a move would surely be considered a backward step in an environmental sense and wouldn't necessarily be an immediate priority for the government, whatever form that takes.

Moreover, it has been reported that the construction sector is soon to enter a slowdown, which could suggest the pipeline of Build to Rent schemes could dry up. In turn, this would mean a shortage of good quality properties that could be privately



rented. These circumstances combined with the economic uncertainty, reduced workforce available in the construction sector, and fewer potential tenants - all potential consequences of Brexit - could put the brakes on the current mini-boom in Build to Rent.

Indeed, with regard to the fewer potential tenants, it must be acknowledged that a significant proportion of the demand for rental property, especially in London, originates from the member states of the EU. Although over the longer term tenant numbers will undoubtedly fall, we could see the opposite in the short term. Individuals may aim to get established in the UK before the split, increasing demand and driving up rents. Rents will then drop off as we exit, that is, if we are to assume some limitation on freedom of movement.

However, according to the latest Association of Residential Letting Agents PRS report, the rental market was 'calm' after the referendum result. The report indicated that supply, demand and the cost of renting stayed broadly flat. Elsewhere surveys have suggested that despite widespread concern, many landlords believe that the outcome will not actually affect their own lettings businesses.

Regulatory conditions could be set for change. The Right to Rent rules, which

went live across the UK in February of this year, detail how landlords are to carry out checks, in effect about the immigration status of prospective tenants. Could we see an extension of these checks to encompass EU nationals if freedom of movement is limited in negotiations following Brexit? And perhaps, although it may seem extreme, landlords could be given the right to evict EU nationals post-Brexit. Indeed, we are seeing a similar trend towards such a situation with non-EU nationals, so it isn't as extreme as it may seem at first glance.

Could the rules for landlords vary according to where in the country the property is located? The London Chamber of Commerce has pressed for a 'London Visa', calling on new Mayor Sadiq Khan to implement a system which would guarantee a flow of migrant labour. Under this system, the capital would remain open to freedom of movement, whilst other cities and regions would not.

Ultimately, although there is concern that other parts of the regulation of the day to day business of lettings in the PRS could be eased due to Brexit, this is unlikely. The majority of regulation relating to the sector originates from the UK so a reverse is just not likely to happen.



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