



Chartered  
Institute of  
Housing

# What you need to know about the Homes (Fitness for Human Habitation) Act 2018



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The [Homes \(Fitness for Human Habitation\) Act 2018](#) is a piece of legislation which became law when it gained royal assent on 20 December 2018. It was originally put forward by Labour MP Karen Buck as a private members' bill (a piece of legislation proposed by a backbench MP) but became law after gaining cross-party support.

In summary the Act requires that rented homes are always kept in a condition that is 'fit for human habitation' and allows tenants to take their landlord to court if they are not.

This briefing for CIH members provides a short overview of the Act including who it applies to, when it comes into effect, what it will do in practice and what CIH thinks about it. More detailed [guidance documents](#), for landlords, tenants and local authorities, have also been published by the Government.

## Who the Act applies to

The Act applies to properties that are rented by both social and private landlords in England. Once it is fully implemented, the only properties not covered will be those that are let using a fixed term tenancy which lasts for more than seven years.

## When the Act comes into effect

Although the Act will eventually cover almost all properties let by both social and private landlords, it is being brought into effect in two stages:

- it will initially come into effect on 20 March 2019. From this date any new tenancies that are created will be subject to the Act. The only exception to this is fixed term tenancies of longer than seven years. In addition, any existing fixed term tenancies of less than

seven years that become periodic after 20 March 2019 will also become subject to the Act at that point

- a year later, on 20 March 2020, it will be extended to also cover all existing periodic tenancies (including both secure and assured tenancies used by most social landlords).

## What the Act does

The Act requires that all rented homes are suitable for human habitation, both at the point that they are let and throughout the subsequent tenancy. In general it is the landlord's responsibility to ensure this, although there are a small number of specific exceptions to this.

The most important exceptions are:

- the landlord isn't liable until they have been given notice of the problem
- the landlord is not responsible for problems that are caused by the tenant failing to act in a 'tenant-like manner'.





The Act implies a contractual term into each tenancy agreement. It works in a similar way to existing provisions from the Landlord and Tenant Act 1985 which create a legal duty for landlords to carry out repairs, and it is intended to complement that requirement. It will not be possible for a landlord to write a term into their tenancy agreements to override it.

Ultimately it will be for a court to decide whether a specific property is unfit for human habitation. In doing so, the court can consider the following factors:

- repair
- stability
- freedom from damp
- internal arrangement
- natural lighting
- ventilation
- water supply
- drainage and sanitary conveniences
- facilities for preparation and cooking of food and for the disposal of waste water
- any prescribed hazard. I.e: if the property has been assessed using the Housing Health and Safety Rating System (HHSRS), it may be deemed to have one or more 'hazards' which pose a risk to the people living there.

Cases are likely to be heard by a county court. If the court agrees that a property is unfit for human habitation, they can issue an injunction requiring the landlord to carry out repairs or improvements to the property and/or to pay compensation to the tenant.

For a more detailed legal explanation of the Act, CIH members can watch a [webinar](#) which was recorded while the Act was still making its way through parliament.

## Why the Act is significant

Although there are already other laws which are intended to prevent landlords from letting unsuitable or dangerous homes, the Act remains significant for several reasons.

Firstly, it fills a gap in the current laws whereby a hazard to health and safety that is caused by a structural defect, rather than as a result of disrepair, currently has no effective cause of action. This might cover, for example, a building with defective drains.

Secondly, it gives tenants a direct route to challenge their landlord in court. This is in addition to the laws that already exist, it does not replace any existing legal requirements.

At present powers to tackle rogue landlords sit with local authorities, meaning that a tenant living in an unfit home must rely on their local council to take formal action. In practice some councils take legal action against large numbers of landlords every year, while others act against very few. Many councils say that they do not currently have the resources to adequately enforce minimum standards in their area.

Many local authorities are also social landlords and cannot take legal action against themselves. In practice they are also unlikely to act against their housing association partners, so for a social tenant living in an unfit property the Act will provide a means of challenging their landlord. This has taken on greater significance following the Grenfell Tower fire, where residents had previously unsuccessfully attempted to raise concerns about the safety of their building.



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## What landlords should do

You may wish to review and revise your repairs and maintenance policies and procedures, for example you may want to think about how you respond to complaints about condensation mould growth.

If you have older properties that are susceptible to condensation, or with other design defects, you may wish to consider restructuring your long-term maintenance programmes in order to bring forward high risk properties and avoid more costly class actions.

## What CIH thinks

CIH supported the introduction of the Homes (Fitness for Human Habitation) Act.

It is imperative that everyone has access to a safe and decent place to call home. We consider that the new law will support this by giving tenants a direct legal right to challenge their landlords.

