

Key Facts

Right to Rent Update

Significant Increase in Fines for Non-compliance with Right to Rent Checks: A Comprehensive Guide for Letting Agents and Landlords

Introduction

The penalties for repeated non-compliance with the Right to Rent check rules have seen a substantial increase, with new fines reaching up to £20,000. Consequently, it is imperative for landlords and letting agents to exercise due diligence when verifying the Right to Rent of all adult applicants in England prior to the commencement of a new tenancy agreement.

Increase in Fines

Effective from Tuesday, 13th February, the fines will escalate from £80 to £5,000 per lodger, and from £1,000 to £10,000 per occupier. In the event of recurrent violations, the fines will further increase to £10,000 per lodger and £20,000 per occupier.

Understanding the Right to Rent Check

The Right to Rent check serves as a preventive measure against individuals without lawful immigration status from illegally renting a property.

Importance of Accurate Referencing Checks

The execution of accurate referencing checks and the maintenance of records pertaining to these checks are crucial in helping landlords and agents evade fines for non-compliance.

Procedure for Agents

Agents are required to verify the Right to Rent of prospective tenants and any other individuals who intend to use the property as their primary residence, before the official start of the tenancy agreement. This verification should also be carried out in the 28 days preceding the start date for tenants with a time-limited right.

Record Keeping and Potential Penalties

It is of utmost importance that these checks are conducted and accurate records are maintained for a year following the termination of the tenancy agreement. Failure to comply, especially in cases where it is found that a property has been knowingly rented to an individual without the right to reside in England, could result in an unlimited fine and a prison sentence of up to five years.



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Unlimited Right to Rent

Certain applicants possess an “Unlimited Right to Rent”. This category encompasses British and Irish citizens, individuals with EU Settled Status, and those who have the “right of abode”, indefinite leave to remain, or simply no time limit on their stay in the UK.

Time-Limited Right to Rent

Conversely, other applicants will have a “Time-Limited Right to Rent”, which includes those with pre-settled status. For this subset of tenants, it is necessary to ascertain the duration of their eligibility to stay in England and conduct a follow-up check prior to the expiration of that period to avoid any penalties.

Reporting Loss of Right to Rent

In the event that a tenant loses their Right to Rent during their tenancy, it is mandatory to report this to the Home Office.

Updates on Right to Rent Fines from February 2024

Commencing on 13 February, individuals with “in-time applications for permission to stay in the UK, an appeal, or administrative review”, can now demonstrate their Right to Rent through the new Home Office online service.

Increase in Maximum Civil Penalty Fines

The government has escalated the maximum civil penalty fines for non-compliance. For initial breaches, landlords will now be charged £5,000 per lodger and £10,000 per occupier, a significant increase from the original fines of £80 per lodger and £1,000 per occupier. For repeat breaches, fines that were previously £500 for lodgers and £3,000 for occupants have now increased to £10,000 and £20,000 respectively.

Understanding Right to Rent Checks

It is crucial for landlords to comprehend the Right to Rent checks.



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Conducting the Right to Rent Checks

The process of conducting the Right to Rent checks is an essential part of this procedure

Manual Check Procedure

To conduct a manual check, landlords and agents must inspect the original documents that validate the tenants' Right to Rent. These documents can be found on the [government's official website](#). The documents must be checked in the presence of the applicant to ensure their authenticity and to verify that the applicant's identity corresponds with the document. Consistency in photographs and dates of birth across the documents is crucial, and any discrepancies in names must be justified by the applicant. Additionally, it is necessary to confirm that their immigration leave to remain is still valid. Upon completion of the document check, records of this check, including the date it was conducted, must be maintained for at least a year after the termination of the tenancy. It is important to note that landlords and agents cannot dictate how an individual proves their Right to Rent. If a tenant is eligible for a manual check and opts for this method, landlords and agents are obliged to respect their choice.

Utilising the Home Office Landlord Checking Service

In the event that the applicant does not possess the necessary documents, the [Home Office Landlord Checking Service](#) can be used to conduct the check. This check can be requested by completing an online form. A record of the certificate of application must be kept and the initiation of the tenancy agreement must be deferred until a response is received. The Home Office will provide either a positive or negative response regarding the applicant's Right to Rent the property. If the service has not processed the request after two working days, confirmation will be received that the property can be let to the applicant, which will be valid for 12 months.

Using the Home Office Online Service

[Home Office's online service](#), introduced post-Brexit, can be utilised by landlords. Applicants eligible for this service include those with a biometric residence card or permit, or an eVisa, those with settled or pre-settled status, and those who have applied for a visa and used the "UK Immigration: ID Check" app to scan their ID on their phone. As of 6 April 2022, if the applicant has a Biometric Residence Card or is a Permit holder, their documents can no longer be checked manually and the online service must be...



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used. Applicants who have received a digital status via an eVisa can now only use the Home Office's online service. Landlords can access an individual's Right to Rent information on the online service once they have received their share code and date of birth.

Operation of the Online Service

Eligible applicants are required to provide their [share code](#), which can be obtained from the government's site and will expire after 90 days, and their date of birth. These details must then be entered into the [online service](#) in the presence of the applicant via a video call. This allows for the verification of the photo on the service's profile page against the applicant. The profile page must then be saved as evidence of the check.

Checking Nationals of B5JSSK Countries

Since 2019, nationals of Australia, Canada, Japan, New Zealand, Singapore, South Korea, or the USA (B5JSSK) have been able to enter the UK via eGate, and therefore do not have a stamp in their passports indicating the date of arrival. They are permitted to stay in the UK for six months, following which they will require a visa for an extended stay. Their passports and evidence of their arrival in the UK within the last six months must be checked first. This evidence could include their boarding pass, travel ticket, booking confirmation, or any other document that confirms the date of their arrival in the UK. The check can be conducted either in person or over a video call, but the landlord or agent must hold the original documents for the check.

Subsequent Check After Six Months

Despite tenants likely having their visa once this 6-month period ends, the Right to Rent framework necessitates another check before the end of a 12-month period to confirm that your tenants have a right to continue renting. Propertymark advises that "[evidence of a correctly administered 12-month check](#)" will provide a "solid basis" to avoid fines.

Digital Checks with Certified ID Validation Technology Providers

As of 6 April 2022, the Home Office has amended legislation to permit landlords and agents to use certified [Identity Service Providers](#) (IDSPs) employing Identity Document Validation Technology (IDVT) to digitally check the Right to Rent of British and Irish citizens. With these new technology providers, landlords can remotely verify their tenants' identity and confirm their eligibility to rent. However, tenants retain the right to request a manual check. If tenants opt to use the new process, they can upload images of their personal documents, instead of sharing physical documents with their landlords, which will assist landlords in identifying fraudulent documents.

