

# Transcript

## **RRA Unit 1**

### **Purpose of the RRA**

Hello everybody. So we're now going to have a look at our first video. We're going to look at the purpose of the Renters' Rights Act, so what the government is trying to achieve. And we're also going to have a look at the short history of the private rented sector. And you might say, "Well, why do we need a short history?" Well, we can't really understand the changes the government are bringing in unless we understand why, and to understand why, we need a little short history lesson. Promise you, not too long. Okay, let's get going.

What is the purpose of the Renters' Rights Act? What is the government trying to do? There's a number of things the government has said. And by the way, we need to be clear that the Labour government have brought in the Renters' Rights Act, but the previous Conservative government were looking to bring in a similar set of reforms called the Renters' Reform Act. So this, in a way, has, Labour and Conservative, two main parties, has cross-party support. But let's see what the government is looking to do.

They want to create longer term lets in the private rented sector and give people more confidence in using the private rented sector as a tenure of choice. So that's pretty important, isn't it? A lot of people would see the private rented sector at the moment as pretty much short term and fixed term tenancy, six months, twelve months. What do I do at the end of that? Is this really the tenure that I want? I want to put down roots, I want to get my kids into school. And so this creates longer term lets and gives people confidence in using it as the tenure of choice.

Now, let's be clear, the changes are controversial, and the government's aim, they say, is to create a system that's fair to tenants and fair to landlords. But many landlords are opposed to these changes. You only have to go online and have a look at the various landlord forums to realize that this hasn't gone down well with landlords.

So why hasn't it gone down well? In many ways, landlords would see it as changing the goalposts, I suppose. So there are too many rights of tenants and not enough rights for landlords. Other commentators would say it just brings England in line with many European countries. In many European countries, renting is the big thing, not owning your own home. And many European countries would have long-term rights

for tenants, but it remains controversial. For example, the Reform Party have said if they win the next general election, they will repeal the Renters' Rights Act. They'll get rid of it, and I suppose move back to something that was similar before they came in.

So there's its purpose: to produce longer term lets, professionalize the private rented sector as well. Let's not forget about that. The government very much wants to see landlords being as professionals. Okay, so there's our purpose of this legislation. It is the biggest change to the private rented sector in a generation.

Let's look at our short history, because to understand why the government has brought it in, we need to understand a short history of the private rented sector. This is going to be a recent history, and the dividing line is 1988. In 1988, you have the 1988 Housing Act, and that divides the old rules for the private rented sector, which then became the new rules post-1988.

If you looked at the position before 1988, there were the series of Rent Acts, and in those Rent Acts you could arguably say that landlords' rights were very few and tenants arguably were in control. They had the rights. There were rent controls, so landlords weren't able just to put the rents up as they wished. There were strict rent controls, and if landlords wanted to regain their properties, that was incredibly difficult. Under some of the rules, not in every private rented property but in many of them, tenants had the right even for succession to maybe their kids. So they had a tenancy for life, and they could pass that tenancy down to their kids. There were succession rights as well.

That made it very difficult for landlords, really. They're saying, "Well, why would we rent? Because we can't control how much income we get in. We can't control who we can get out. And it's not just a tenancy for life, but in many cases you could pass that tenancy down." So what the private rented sector largely was for was for students and house shares when young people were finding work. It was a small part of the market, the private rented sector.

If you were students in college or university, you might actually use the private rented sector as your student accommodation. And if you were starting out, maybe 18, 19, 20, 21, you'd find other people to share with, and you'd get a private rented property as a house share while you were working. That was pretty much it. There were others, obviously, in the private rented sector as well, but those were the main uses. So you could argue that there was very little incentive to rent out homes in the private rented market, and as a result it was a very small market, and as a result there was a shortage of housing to rent.

Now, what changed? Because I say the dividing line is 1988 when the Housing Act came in. We have the Thatcher Conservative government, a little history: 1979, in comes the Thatcher Conservative government. It's a radical government, and eventually it got round to the private rented sector and brought in the '88 Housing Act.

This changed the balance between the rights of landlords and the rights of tenants. Arguably, the balance swung completely, the pendulum swung completely in the other direction, so that it was the landlords in control really of who they let to, when they could get people out, what rent they could charge.

The big change that came in was this thing called assured shorthold tenancies. They were brought in under the '88 Act. Officially that came in in January 1989, and in 1997 they became the default tenancy. So an assured shorthold tenancy. We're used to, in housing options, to the term AST. It was brought in by the '88 Act, and there was a lot in terms of the wording: assured shorthold. Shorthold gave you short, fixed-term tenancies. The minimum term was six months, so many landlords would let under the fixed term, the shorthold, for six months or twelve months.

And it wasn't just the length of the tenancy. Another big change was something called Section 21 notices. The Section 21 notice was a revolution for landlords in how to get their property back, because they didn't need to give a reason. A Section 21 notice is called a no-fault, no-reason-required notice. If the fixed term has ended and I follow the rules at the end of the fixed term, then I can issue a Section 21 notice, and there is no defence to be made. As long as the notice was valid, then the county court must give the landlord possession back.

What that meant, obviously, was that landlords had far more control who to let to and how and when they would be able to get their properties back, as well, of course, as being able to set their own rents. There were no more rent controls after the '88 Act. That gave landlords far more confidence in renting, and that meant you had a new breed of landlord starting to emerge in the 1990s, which were buy-to-let landlords.

People that had some money, maybe pension money, pension pot money, or inherited money, or they'd inherited a property from parents, and they saw renting in the private rented sector as something that would give them a good financial return. And they were confident that they could get their properties back, and they could choose who they would rent to.

The result then was pretty staggering. The private rented market doubled from about 9% of households in 1991 to today around 19% of the housing market in England. So

from 9%, one in ten, to about one in five, roughly 19% of the market. That also brought another change. The final change isn't as a result of the '88 Act, but it's still important to understand that the tenants, the type of tenants, changed. Instead of students and young professionals, even though they were still there in the private rented market, the PRS in the last 20 years has increasingly become the alternative social housing provider because there isn't enough council and housing association homes.

So people who, for example, are homeless, as you will well know from the work that you do, it was the private rented market that became the alternative. You can see that short history: prior to '88, tenants in control. After '88 until today, until May the 1st, very much landlords in control. And what the government wants from the Renters' Rights Act from May the 1st is a balance, a more balanced piece of legislation where landlords can get their properties back, they still have the ability to set their rents, but there are more rights and more confidence for tenants in the private rented market. Will it work? Well, we will see, won't we, as the years go by as to whether this is going to be successful or not.

Now, just to finish this section, this video, it's important to understand that the Renters' Rights Act does not apply to all lets in the private rented sector. It'd be very easy to think it covers everything, but it doesn't cover everything. If we were doing this technically, we have the 1988 Housing Act that sets the tenancy regime, and there are some types of arrangements, lets in the private rented sector, where the '88 Act doesn't apply. In other words, the Renters' Rights Act doesn't apply. We're going to briefly just go through those because it's important that you're not under the impression or the view that this applies to absolutely everything in the private rented sector.

The first thing it doesn't apply to is lodger arrangements. So if we have a resident landlord living—maybe a landlord has a house and they rent a room in their house, so they share with their lodger the kitchen and the bathroom, et cetera—then that's a licence. It's a lodger arrangement, and the Renters' Rights Act does not apply. Holiday lets: I'm going on holiday, say, to Cornwall. It's a short-term rent. I rent it for the week or two. It doesn't apply. Company lets: you do get some companies that say, "Right, we will let it. We're the company, and we will let it." It's not being let to an individual, but it's let to a company. That doesn't apply.

It doesn't apply to some very small number of properties which are high-rent or low-rent tenancies. The high-rent ones are over £100k a year; it doesn't apply to that. The low-rent ones are less than £1,000 a year in London or less than £250 outside of London. We're not going to get many of those, are we? And many of your clients who

might be presenting with a notice who are claiming to be homeless are certainly not going to be in a property of £100k or more a year.

Interim temporary accommodation doesn't apply. Case law has established that if I'm under a 188 duty, for those of you that want to get technical—so an interim temporary accommodation duty—maybe I owe you a relief duty, and I give you temporary accommodation because you have a priority need, then it doesn't apply. You are the licence holder. Your status is that of a licence if you're in interim temporary accommodation.

Business or agricultural holdings: there are a lot of different types of arrangements around agricultural holdings, but by and large, if it's a business holding or an agricultural holding, used specifically for commercial purposes or farming purposes, it wouldn't apply.

Council tenancies: if you own your own council stock, then you're outside of the 1988 Housing Act rules. You have your own rules, and so it doesn't apply to council tenancies.

Licences, where it can be demonstrated that the person does not have exclusive occupation: if you hold a licence, then it doesn't apply. That's an important one because that is going to be a confused area going forward. We are going to see very many more sham licences, where maybe a house in multiple occupation.

So let's just explain that a bit more. If I have a house in multiple occupation, I let rooms out, then you have a lockable room. You have a lock on your room. You have exclusive occupation of your room, and you share the communal facilities. You might be sharing, say, the kitchen facilities, et cetera. Landlords may say, "Well, that's a licence." Well, it's unlikely to be a licence. Just because I've got exclusive occupation to my room, it's difficult to say for the landlord it's a house in multiple occupation so it is a licence. Most of those arrangements are going to be tenancies, and therefore the Renters' Rights Act will apply.

For councils, if you're watching this video as a housing options officer, then obviously as a council, be wary of the number of shams that are likely to come your way. So if somebody says, "Well, I'm a landlord, and what I do, I virtually act as I would if it was a hotel or Airbnb. I change the bedding, I clean the rubbish out, and I clean the room," then it could well be a licence, but there's not going to be many of those arrangements going on. In your head, think of what you would get in a hotel: you'd have the bedding changed, you'd have the room cleaned, et cetera. That's the type of arrangement

where it would be considered to be a licence. But many houses in multiple occupation are going to be tenancies, and some landlords are going to get a shock. There are big fines for landlords who claim their property is let on a licence when the facts are that it's clear that it's still let on a tenancy.

Nearly there. Tenancies provided for asylum support—we still commonly call that NASS cases. Home Office accommodation, dispersal accommodation with the Home Office contractors, where if you're an asylum seeker and you need accommodation, you will come under the Home Office scheme, not called NASS these days, but commonly called NASS by everybody else. It doesn't apply to those types of renting arrangements.

And finally, leases with a fixed term of more than 21 years. We don't need to get into the detail of that. You're not going to see any of those from a homelessness point of view or housing options point of view. You just need to know if it's a lease with a fixed term of more than 21 years, it does not apply.

Okay, so that's our video looking at the short history of the private rented sector, the purpose of the Renters' Rights Act, and the fact it doesn't apply to all types of lettings in the private rented sector. Okay, I'll see you on one of our next videos