

Transcript

RRA Unit 2.5

The new rules for increasing the rent

Hello everybody. In this video we're going to have a look at the Renters' Rights Act new rules on how landlords can increase the rent. These are quite strict rules that have been brought in under the Renters' Rights Act. Let's have a look at it.

Before the Renters' Rights Act came in on the 1st of May, a landlord could increase the rent through various means. The common ways that landlords would increase the rent would be a clause in the tenancy agreement, with specific terms to increase the rent annually, written into the agreement. When you came round to the annual point, the rent would go up on that basis. Some rent increases were agreed verbally, where a landlord might say to a tenant, "Inflation's gone up, lots of costs have gone up, my mortgage has gone up, I want a higher rent," and they would agree it verbally. Some, but not many, were done through the more formal process of issuing the tenant what's called a section 13 notice under the old, pre-1 May rules. Those were the main ways that landlords ended up increasing the rent under the old rules.

From 1st May, rent increases in the private rented sector will be limited to one increase per year. The aim of the rule is to prevent sudden, unaffordable increases. The government recognises that if rents were increased twice a year, that could put people into a very difficult position in terms of affordability. So it is now an annual increase: one increase per year.

There are very clear procedures set by the Renters' Rights Act as to how you can raise the rent. Landlords can only raise the rent once a year, and they can only raise it by using the new section 13 procedure. They must also provide two months' notice to be able to increase the rent.

What will happen now is that any rent increase clauses in existing tenancy agreements which say, for example, "we increase it by X annually," will have no effect. After 1st May, when the Renters' Rights Act came in, those clauses have no legal effect. They do not have to be removed from tenancy agreements; they are simply no longer valid. The only way the rent can be increased is through this section 13 procedure.

How much can a landlord increase the rent by? The law does not put a limit on the amount a private landlord can increase the rent. There are no statutory rent caps or restricted rents in the private sector. There are rent restrictions for housing associations, but here we are talking about the private rented sector rather than housing associations. Landlords therefore have lots of options in deciding, if they want to increase the rent, how much that increase should be.

Many landlords will use the Consumer Price Index (CPI) inflation rate. Some use a more sophisticated version of that called the Consumer Price Index including owner occupiers' Housing costs (CPIH), which in 2025 is around a 3% annual increase. Some will look at annual increases in wages to determine how much to put the rent up. Others will research the market – looking at Rightmove and other data on regional rents – to see what the rent should be. Some will simply pick their own figure. There is nothing in the Renters' Rights Act that says a landlord has to use any particular method. Ultimately, it is for the landlord to decide how much to put the rent up by.

However, tenants now have a right to challenge that rent increase, and they will be able to challenge it through something called the First-tier Tribunal (FTT). A tenant will be able to challenge any increase in rent from 1st May via the FTT process. The FTT is not new, but it has not often been used by tenants to appeal rent before the Renters' Rights Act came in.

Why was it not used? Partly because, under the old rules, the FTT could actually set a higher rent than the landlord had proposed, because the tribunal is checking what the market rent would be. So the landlord might say, "I want a rent increase to take it up to £1,200 a month," but the FTT might decide the market rent is £1,400 a month. As a tenant, you ran the risk, if you appealed to the FTT, that you might come out with a higher rent than the landlord originally asked for. The other problem under the old system was that, when section 21 notices existed, tenants were worried that if they challenged a rent increase through the FTT, the landlord might respond by serving a section 21 notice and trying to evict them.

What has changed? After 1st May, the FTT will only be able to set a rent figure that is the same as or lower than the rent proposed by the landlord. So the tribunal can confirm the landlord's proposed figure, or reduce it, but not increase it. The change also cannot be backdated under the new rules. Under the old rules it could be backdated; under the new rules, it cannot. Furthermore, new tenants will be able to challenge even mutually agreed rents for up to six months after moving in.

That sounds difficult for landlords, but those are the rules. A tenant could literally say to a landlord, “The rent you’re asking for is fine, I’m happy to pay it,” sign the tenancy agreement, move in, and then the next day appeal that rent to the FTT. Even if the rent has been mutually agreed, for six months after moving in the tenant has the right to take it to the FTT.

On appealing to the FTT, there is no cost to the tenant. The tenant does not have to pay a fee, so there’s nothing financially to deter them from appealing. There is also no risk that, if the tenant challenges the rent increase, the tribunal will set it higher than what the landlord is proposing, because, as explained, it must be set at the landlord’s proposed rent or lower. There is no risk of any increase being backdated if it is agreed by the FTT. The FTT can also reduce the rent if they think the proposed increase takes the rent above market value.

A crucial point is that any rent increase, even if agreed, will not come into effect until the next payment date after the FTT decision. The FTT can also delay the start of the new rent by up to a further two months if there is evidence of undue hardship on the tenant.

These rules have significantly changed, arguably in the tenant’s favour, to make it much easier for tenants to appeal a rent increase to the FTT without any risk of ending up with a higher rent than the landlord asked for.

Let’s look at the process a landlord must follow to put the rent up. They can no longer just agree a rent increase verbally, and they can no longer rely on a rent-increase clause in the tenancy agreement. It must now be done via a section 13 notice. A landlord must issue a section 13 notice using a prescribed form, called Form 4A. This is a standard form published by the government. To use the section 13 procedure, the landlord must use Form 4A to give notice of the rent increase. If they use the wrong form – for example, the old Form 4 from before the Renters’ Rights Act – they will have to start all over again.

Secondly, they must give a minimum of two months’ notice, and that notice must expire at the end of a rent period. That means the notice must expire on the date the rent is due to be paid. Many landlords who don’t use managing agents are likely to get this wrong and will have to restart the process. Simply giving “two months’ notice” is not enough; the two months’ notice must end on a rent due date. This is fairly complicated for landlords.

If a section 13 notice has not been properly given, then any rent increase cannot be treated as rent arrears, and the tenant has no legal obligation to pay it. It is effectively null and void. If the landlord has not used the section 13 notice process correctly, there is no lawful rent increase, regardless of what the landlord thinks. So if a landlord says, "You're now in rent arrears," the tenant can say, "No, I'm not – you didn't seek the increase through the proper section 13 process."

The tenant can then appeal the rent increase to the FTT, but there are rules around this. They must do so before the expiry of the two month section 13 notice period, and they must also inform the landlord that they have appealed to the FTT. If the tenant fails to appeal within the two month notice period, they will not be able to appeal that particular increase. There is a strict timetable: it must be done within two months, and the landlord must be told.

The tenant does not have to provide any evidence as to why they think the increase takes the rent above the market rent for the property. It is enough for the tenant simply to say, "I think it's too high." The tribunal will then evaluate the property, compare it against similar properties in the area, and reach a decision. Once that decision has been made, the clock for the next possible rent increase starts from when the new rent actually comes into effect, not from the date the section 13 notice was issued. In other words, a landlord cannot seek another rent increase for 12 months after the date the new rent came into force. It is not 12 months from the date they gave the two months' notice; it is 12 months from the date the new rent began.

Landlords are concerned that tenants now have nothing to lose by challenging a rent increase, even if that increase is well below the estimated market rent. They have nothing to lose because the increase will be delayed until the FTT makes its determination. It could be as long as six months before a rent increase actually comes into effect after the landlord serves the notice, taking into account the two month notice period, the time it takes the FTT to hear the case and make a decision, and then the rule that the new rent can only start on the next rent payment date after the decision.

Even if the FTT agrees with the landlord, the new rent cannot take effect until the next payment date after the FTT decision. Putting that all together, it could easily be around six months from notice to the new rent actually being payable. Landlords ask: what have tenants got to lose in appealing to the FTT? Other commentators say that if a tenant is genuinely happy with the increase, they are unlikely to appeal. We will have to wait and see how this works in practice.

To give a sense of reality, before the Renters' Rights Act came in there were only 34 judges for the FTT across the country. The risk of huge delays is very real. There were very few rent cases before the FTT under the old system because tenants rarely appealed. Now we are likely to see large numbers of tenants appealing rent increases. Research by the National Residential Landlords Association shows that there is already a waiting time from application to hearing of around 18 weeks. That is already quite a delay from a tenant saying, "I wish to appeal to the FTT," to the actual hearing, largely because there are only 34 judges.

So what is an 18 week delay likely to turn into if the number of cases rises significantly – six months, nine months, twelve months before the FTT can hear a case? The government has said, in warm words, that if the FTT becomes overrun, they will look at other bodies that could potentially deal with rent increases. Saying that is one thing; making it a reality if the FTT quickly becomes overrun is another.

It is a genuine concern for landlords: why wouldn't a tenant appeal the rent to the FTT, given they have nothing to lose and the appeal is likely to delay any increase? When you add together the two months' notice, the time for the FTT to hear the case, and the fact that the new rent only starts at the next rental period after the decision, it is likely to be at least six months before the increase takes effect. That could mean rent increases effectively happen every 18 months rather than every 12 months if a tenant always appeals.

This is a controversial area of the Renters' Rights Act. We will need to watch this space to see what the effect will be. I'll see you in another video.