

Home Truths

Summary of all Grounds for Possession

Iris Ferber KC: Hello and welcome to *Home Truths* - the Housing Law Podcast from 42BR Barristers. I'm Iris Ferber KC.

Alexander Bailey: And I'm Alexander Bailey. And this is the next episode in our series of podcasts about the Renters' Rights Bill.

IFKC: We're talking today about the Bill as it looks on the 29 of July 2025. And this discussion is about the Renters' Rights Bill as it relates to housing law in England only.

AB: And today we're going to be summarising the new list of Grounds for Possession, old and new, that will be available to landlords once the Renters' Rights Bill becomes law.

The biggest change to note is that Section 21 will be gone. A landlord will therefore have to identify the reason why they want possession.

There will simply be no alternative.

IFKC: Alex, there is a lot to say, isn't there about these changes to all the different grounds? But for that, tune into the other podcasts in our series, this podcast is intended as an all-in-one summary of all of the grounds without discussing any one of them in any particular detail.

AB: Yes, absolutely. So moving forward. So I'm a landlord, let's say it's January 2026, the Renters' Rights Bill has become the Renters' Rights Act, I want to evict a tenant, I need to identify a ground that I'm allowed to use. I'm reading Schedule 2 to the Housing Act 1988 as now amended by the Renters' Rights Act.

IFKC: Yes, that's right. It's still all in Schedule 2, and the division between Mandatory and Discretionary Grounds is still there, so grounds 1 to 8 are still mandatory, and that means if the landlord can prove the necessary facts, the court is obliged to make the order for possession. But after ground eight, there is a series of discretionary grounds where once the landlord has proved the necessary facts, the court still has to make a decision under its own discretion whether or not to make a possession order.

So all of that structure is familiar, it's just as it is now in Schedule 2, the 1988 act.

So let's start at number one, Alex, what does ground one now tell me if I'm in January 2026?

AB: Yes, so ground one, this is the ground that lets you get a possession order against a tenant if you want to move into the property yourself.

In future, unlike the current law, it will be expanded to include some specific family members of the landlord. There won't be a requirement for a pre tenancy notice to have been served on the tenant, which is a current requirement, so that's a change. The landlord can also not use ground one for the first 12 months of the new tenancy, so there are some changes there, albeit it looks a little bit familiar.

IFKC: But it's wider in the sense that there's going to be no notice requirement, and it's not just going to be the landlord, it's going to be landlord and certain family members.

AB: Absolutely.

IFKC: Okay. Now we have some new grounds, so that was a change to an existing ground. Next we have grounds 1A and 1B, which are totally new.

1A is where a landlord wants to sell the property. This one only applies to private landlords, not to social landlords. And as with the amended ground one that you've just been telling us about, Alex, this one, ground 1A can't be used in the first 12 months of the tenancy. So that's moving into the property - number one, selling the property - number 1A.

Alex, what's ground 1B?

AB: So 1B, this is actually quite niche. It's the equivalent of 1A, but for a social housing landlord, sort of. Now we're not going to go into the details, but very basically this is where a property was rented out by a social landlord as a rent-to-buy, and the tenant hasn't exercised their option to buy within the fixed term in the rent-to-buy agreement.

So what about ground two, Iris?

IFKC: Yes, let's move on to something which is more likely to come up for our listeners. That's a ground that allows a mortgage company to get possession so it can repossess a property and sell up when a landlord is behind with their mortgage. The only change to that, so that's an existing ground already in place now, an important change is from the time of the Act coming into force, this ground is no longer going to be limited to a mortgage that started before the start of the tenancy, and there's not going to be a requirement for a pre tenancy notice either. So again, this is now a much wider ground.

AB: That's a theme of these new grounds and amendments, isn't it? Widening them and bringing in many new situations. And that's of course, because Section 21 is not going to be available to mop up all of those situations anymore.

IFKC: Yes, exactly, Alex. In the absence of going to Section 21, the landlord needs to have a comprehensive list of grounds where

whatever may happen is in there somewhere in the grounds, and that is why all of these grounds, or many of these grounds, are getting widened.

AB: Okay, so a number of new grounds after ground 2 bit of an alphabet soup of names here we've got 2ZA, 2ZB, 2ZC, 2ZD. They're all about taking possession because the landlord's own lease is either going to end or is already ended.

IFKC: Okay. And we're not going to go into any more detail on that, but what about ground 3 - Holiday Lets?

AB: That's gone. Gone entirely.

IFKC: Okay.

AB: So we go straight from ground 2ZD to ground 4. For some reason there is no ground 3.

IFKC: Right? And they haven't renumbered?

AB: No, they've not renumbered. No.

IFKC: So the numbering is going to be complicated. Fine. What about ground 4 itself? We've got that, which was there before about Student Lets, and we've also got a new ground, ground 4, capital A. 4 and 4A. That's a pair of grounds now, both of them dealing with Student Lets, the drafting is actually pretty complicated. Not going to go into it, but if I had to summarise it in a sentence, I would say these are two grounds that allow a landlord to get a possession order where the tendency has been entered into expressly as a Student Let.

AB: And ground 5 is targeted at ministers of religion. That's really going to be quite niche and quite rare, and so we don't need to go into that any further.

IFKC: That's true, although we're going to get very familiar as practitioners with other grounds that begin with the number 5. That's because a whole new set of grounds, 5A, right through to 5H are coming in, which in some ways do have a similarity to Student Lets, and ministers of religion grounds 4, 4A and 5 in the sense that they focus on the type of person the tenant is or the type of job that the tenant does. So let's list those; 4 and 4A - we've already said is Students. Ground 5 is ministers of religion. Ground 5A - the first of these new five grounds is about agricultural workers and getting possession orders against agricultural workers.

AB: We then have ground 5B - people accommodated by a social landlord because they do a particular type of job. For example, they might be a key worker and the tenant no longer does that job.

We then have ground 5C - people employed by a landlord who are now not employed by the landlord. That, of course, used to be ground 16.

IFKC: Right, so that's sometimes called tied accommodation. That's where you get a job and a part of your job is getting somewhere to live. That's a ground that used to be, as you say, ground 16, which means by the numbering, it used to be discretionary. It used to be in the second half of Schedule 2. In other words, once you proved that the person used to be an employee is no longer an employee, the court still had a discretion whether to make a possession order, that's being moved in the new act into the mandatory part.

In other words, once the landlord proves that the tenant used to be their own employee and is now no longer their employee, they're going to get a mandatory order. So that's 5C. Then there's ground 5D, I for the life of me, don't understand the difference between ground 5D and ground 5B, I'm sure I must be missing something, but the way that ground 5 is set up, it says it's also available only to social

landlords, just like ground 5B, and it's for when the tenancy agreement contains a requirement for a tenant to have a particular type of employment, like a key worker, and the tenant is no longer doing that job.

So both of these and 5C are about employment.

Alex, what about the next few grounds with the 5 in front of them?

A0: There are quite a few.

The next couple of grounds, 5E and 5F, and also 5H. All of these are about supported accommodation, so just running through them very quickly.

We have 5E. The property is used for supported accommodation, but the current tenant did not start the tenancy as a supported tenant.

5F -The property is used for supported accommodation, the tenant started off as a supported tenant, but they are no longer receiving support and there are various reasons that are all listed.

Or finally 5H - the tenancy was granted by a social landlord as stepping stone accommodation, for instance, to a young person at a reduced rent to help them access the private rented sector or live independently, and that's ended.

Iris, is that all for ground 5s?

IFKC: No, don't forget 5G as well. That comes along with the supported accommodation grounds that you've just been talking about, Alex. And this one is for tenancies granted under a council's homelessness duties. Now, bear in mind, this is not a ground that's relied on by the local authority itself.

Obviously, local authorities don't use the Housing Act 1988 in relation to their tendencies, that doesn't apply. They use the Housing Act in 1985? No. This is for private landlords who have allowed a property to be used as temporary accommodation by a local authority that needs to place the homeless household somewhere.

And if that local authority has given notification to that private landlord, that tenancy is no longer needed as temporary accommodation for that household, then that can be a ground for possession under the new 5G with one additional requirement apart from the notification from the council, and that is that the landlord has to start the claim for possession using ground 5G within 12 months of the date of the notice from the council.

AB: And I think that's it for the 6s, but let's briefly talk about ground 6.

IFKC: Yes, we are going to discuss ground 6, but we're going to keep it short because it is a hugely complex ground and we're just going to summarise it.

Really, there is a one word description for this ground if you're going to summarise it, and that is - redevelopment.

AB: Yes.

IFKC: ...very complicated. Partly depends on whether a landlord is a private landlord or a social landlord, and it partly depends on when the individual serving the notice for possession became the landlord. But essentially it is about the landlord needing to do substantial building works or wanting to do substantial building works, including demolition.

And those works cannot reasonably be carried out with the tenant remaining in situ. That's either because the tenant is being uncooperative or because it just can't practically be done with a

person living in the house while the work is happening, and there has to be a tendency that is over six months old for ground 6 to be relied on.

AB: We do also need to mention ground 6A and 6B in this summary. There are new grounds to cover. First, where a social landlord has decanted a tenant for building works to be done, and that tenant is now refusing to leave the decant accommodation and move back into their original property. Now that's 6A.

IFKC: Yes, Alex. So ground 6A is a companion to ground 6, those are both essentially about building work and decanting tenants during building works. Ground 6B is different. That's where the landlord is subject to some sort of enforcement action ie, they are at fault and they're being required to do something as a result of being at fault, and they've got to get possession from the tenant in order to comply with that enforcement notice.

So that could be they've been banned from renting, or the property is a health and safety hazard, or the landlord has let the property when they're not licensed to rent it out, for example, as a house in multiple occupation. These are all species of situations where the landlord is seriously at fault, and yet the act allows them to get possession against the tenant, despite the fact that the fault is theirs.

And the way that's been dealt with is by adding a provision that the landlord has to pay compensation to the tenant if they use this ground, ground 6B.

AB: If you are interested in that and the controversy that's surrounding that particular ground, please do listen to the podcast by Michael Grant and Angela Piers, which does cover that in much more detail than we are able to today.

Moving forward now, ground 7 is possession following the death of a tenant. Ground 7A is the first ground with no changes in the bill. This is the mandatory antisocial behaviour ground, including situations like when a tenant has been proved in court to have breached an ASB injunction.

Ground 7B as well, no changes there. This is where the tenant is subject to immigration control and they don't have the right to rent.

IFKC: Okay, Alex, so 7A and 7B haven't changed. Ground 7 - possession following death changed a little bit. We've now covered most of the unfamiliar and slightly more familiar grounds, and we are getting to the really familiar grounds, the ones that are 90% of cases, which are the grounds that relate to rent arrears.

Let's go to ground 8 first. Now, I know earlier podcasts have already discussed this one. This is by far the most important ground for possession but let's just summarise. The mandatory renter is ground used to be arrears of two months, if it's a monthly tenancy, or eight weeks, if it's a weekly tenancy that is going up by a very significant amount from two months to three months, if it's a monthly. Or from eight weeks to 13 weeks, if it's a weekly. So below three months or 13 weeks, landlord can no longer rely on ground 8.

AB: And in that regard, this is a very tenant friendly uplift in the provisions, isn't it?

IFKC: Absolutely.

AB: So is that it for the mandatory grounds?

IFKC: Not quite. There is a new ground 8A, so that's obviously coming between grounds 8 and 9.

Goodness knows, Alex, why it has been put here. I'm going to tell you what it is in a minute, but logically it would make a lot more sense to put it at the beginning with ground 1, 1A, 1B because it's along the same lines as a landlord wanting to move back into a property or sell a property, which if you remember was grounds 1, 1A. This one, ground 8A, is where a landlord needs the property to put in a carer to live, who is going to be providing personal care, home care to the landlord, to their spouse or to another family member who lives with them and the property is nearby to their own home.

AB: Yes, a very niche provision perhaps, but definitely it would've made a lot more sense for it to be with Grounds 1 and 1A.

Okay, so that's the mandatory grounds where the majority of the changes appear. Now the discretionary grounds are much more familiar. They're not changing as much. So let's take a whistle stop tour through those.

IFKC: Yes. So ground 9 - suitable alternative accommodation, not changing.

Grounds 10 and 11, the rent arrears below the ground 8 level or persistent rent arrears, that's not changing.

Grounds 12, 13, and 15 are not changing. That's the grounds relating to breaches of tenancy, deterioration of the property, and a deterioration of furniture, if it's a furnished property because of the tenant's treatment of the property or the furniture.

Ground 17 - tenancy granted based on false statements, that's not changing.

Then the antisocial behaviour grounds – 14, 14ZA and 14A are not changing.

That's the familiar antisocial behaviour, discretionary ground, ground 14 plus riot, 14ZA, and domestic violence, 14A. Those have been around for a few years now and there's no changes to those.

AB: Finally, we mustn't forget the new ground 18.

It's a companion to grounds 5E, F, and H about supported accommodation, but importantly, this is discretionary. And this one can be used when a tenant of supported accommodation does still need the support but is refusing to engage. And therefore, we do have that discretionary element where the court can look at the particular circumstances and decide whether they should in fact give possession or not.

IFKC: And I think that's it, isn't it, Alex? That's ground 1 through to 18 with all of the ABCs and ZA's, BCs in between.

That's our shopping list of grounds for possession that are going to be in place once the new Act is in force. I honestly don't know, Alex, whether this covers everything. I feel in my bones that it can't cover everything that Section 21 used to, but we shall see how it all pans out once the Act is in force.

Do please listen back to earlier podcasts in this series for a more detailed discussion of some of these particular changes to particular grounds.

AB: Yes, and so thank you for listening. Please do join us for the next episode of *Home Truths* - The Housing Law Podcast from 42BR Barristers, which will be released shortly when Iris, you and Natalie Foster will be looking at chapter three of the Renters' Rights Bill, Prohibition of Discrimination relating to children and welfare benefits.

IFKC: That's right, Alex. Thank you.

And don't forget that you can find our podcasts on Apple Podcasts, Spotify, and the 42BR website.

Thank you very much for listening, and thank you, Alex.

AB: Yes. Thank you for listening and thank you to Iris.