



Justice Committee

House of Commons London SW1A 0AA
Tel 020 7219 8196/8198 Email justicecom@parliament.uk
Website www.parliament.uk/justicecttee

Rt Hon Robert Buckland QC MP
Lord Chancellor & Secretary of State for Justice
Ministry of Justice
102 Petty France
London
SW1H 9AJ

10 September 2020

Dear Lord Chancellor

Thank you for your letter on 24 August informing the Committee of the enactment of the Civil Procedure (Amendment No.5) (Coronavirus) Rules 2020 on 22 August and the extension of the stay on possession proceedings to 20 September. The Committee recognises the importance of providing stability to renters and homeowners during the public health crisis. The Committee welcomes the decision to take extraordinary steps to mitigate the effect of the possible increase of infection rates over the coming months and the need to ensure practical arrangements are in place to provide protections to tenants and homeowners for when the stay comes to an end.

The Civil Procedure (Amendment No.5) (Coronavirus) Rules 2020 concern a matter of major policy importance for the justice system: how the courts will deal with the impact of end to the stay on possession proceedings during the pandemic. Your letter mentions that the extension is designed to enable the Government to put in place practical arrangements to protect homeowners and tenants. The Committee would like to know the exact nature of the arrangements that are being put in place to ensure that possession proceedings function effectively once they resume on 20 September. The Committee understands that steps are being taken to ensure that there will be a duty desk in place so that tenants can receive legal advice. We would like to know what measures are being taken to ensure that legal advice can be effectively delivered remotely, especially to vulnerable individuals. Finally, the delay also raises the question of whether the Government intends to legislate to change the relationship between tenants and landlords. In the midst of the current uncertainty caused by the pandemic, there may be a case to bring forward any planned changes.

Your letter mentioned the breach of the 21-day rule necessitated by the need to act quickly to change the law to protect renters and homeowners ahead of the original deadline of 23 August. We recognise that in these circumstances it was not possible to comply with the 21-day rule. However, we remain concerned that this legal change is being undertaken in a way that does not facilitate parliamentary scrutiny and debate on this significant policy issue for the justice system. We recognise that in the past technical changes to the Civil Procedure Rules may not have generated much political interest. However, in the current circumstances changes made through statutory instruments can raise issues of major policy significance.

All Members in England and Wales will have constituents that will be affected by the end of the stay on possession proceedings and as such there is an expectation that such issues will be debated in the House of Commons. Managing possession proceedings during such extraordinary circumstances will be a major challenge for the courts. Parliamentary oversight is especially significant in this case as the retrospective extension of the stay of possession proceedings raises important issues for the rule of law. The end of the stay on possession proceedings was originally set by the Civil Procedure (Amendment No.2) (Coronavirus) Rules 2020, CPR 55.29, came in to force on 25 June 2020 and was due to end on 23 August 2020. Making these changes at the very last minute may be justified by circumstances on this occasion, but, it is clear by now that reasons cited in your letter—local lockdowns and growing numbers of cases in mainland Europe—are likely to remain part of national life in the medium term. As such, the Committee would ask the Government to provide reassurance that, given the long-term uncertainties caused by Covid-19, opportunities for consideration of significant changes to legislation will be brought forward at the earliest possible time. Legislative measures which raise significant policy questions and rule of law issues that take effect without any parliamentary oversight and which are commenced before they are laid in the Commons should not be normalised. One way of avoiding such practice, is to ensure that such changes are debated in the Commons, even after they have come into force, so that at the very least, their impact can be reviewed and evaluated. In this case, there is clear value to such a debate being held before 20 September.

I look forward to your response.

Yours sincerely

A handwritten signature in black ink, appearing to read 'R. Neill', with a stylized flourish at the end.

Sir Robert Neill MP
Chair
Justice Committee