



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

24 November 2020

Dear Lord Chancellor

Thank you for your letter dated 16 November notifying the Committee that the Government has laid the Public Health (Coronavirus) (Protection from Eviction and Taking Control of Goods) (England) Regulations 2020. The Committee welcomes the Government's decision to legislate to stop evictions, except in limited circumstances, during the national lockdown and during the mid-winter period in England. We agree that this legislation is necessary to protect public health and that people should not be evicted at a time of national crisis and when it is very difficult to access public services.

The Committee would like to know why the Government initially decided to rely on guidance to limit enforcement activity rather than legislating. It has been reported that the decision to legislate was prompted by a pre-action protocol letter for a judicial review seeking to challenge the legality of the refusal to enforce warrants and writs by bailiffs. While we welcome the Government's decision to put this stay on evictions onto a legislative footing, it is arguable that this should have been done either through or alongside the Health Protection (Coronavirus) (Restrictions) (England) (No.4) Regulations 2020, which came into force on 5 November.

The Committee would also like to know whether, when the ban on evictions expires on 11 January and England returns to the Tiered system, the Government will legislate to limit evictions in areas where Tier 2 or Tier 3 restrictions are in place.

In relation to the exemptions listed, we would like to ask the Government for further explanation of the exemption for cases with substantial rent arrears that pre-date 23 March 2020. This exemption can be distinguished from the others included in the regulation, which are justified and clear. The arrears exemption defines substantial as "at an amount equivalent to 9 months' rent". It is unclear why this particular period of time should give rise to an exemption to the general restriction on evictions which is in place to protect public health. The Committee is also aware of concerns amongst specialists in the field as to how the courts will be able to establish the requirements of regulations 4(a) and (b) in practice. We would like further explanation of the process by which a court will be expected to decide if the exemption is made out.

The Committee recognises that the exceptional nature of the Covid-19 pandemic means that the Government must legislate at short notice to protect public health. However, the Committee would also like to be reassured that the Lord Chancellor is able to raise matters relating to the justice system, such as these, when the Government is in the process of formulating national and local regulations to protect public health.

Yours sincerely

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

Sir Robert Neill MP

Chair
Justice Committee