
STATUTORY INSTRUMENTS

2016 No. 1060

IMMIGRATION

**The Immigration (Residential Accommodation)
(Termination of Residential Tenancy
Agreements) (Guidance etc.) Regulations 2016**

Made - - - - *2nd November 2016*
Laid before Parliament *4th November 2016*
Coming into force - - *1st December 2016*

The Secretary of State makes the following regulations in exercise of the powers conferred by sections 33A(8)(b) and 33D(3) of the Immigration Act 2014⁽¹⁾.

In accordance with section 33A(8)(a) of that Act, draft guidance for the purposes of section 33A(6) has been laid before Parliament.

Citation, commencement and interpretation

1.—(1) These Regulations may be cited as the Immigration (Residential Accommodation) (Termination of Residential Tenancy Agreements) (Guidance etc.) Regulations 2016 and come into force on 1st December 2016.

(2) In these Regulations, “the Act” means the Immigration Act 2014.

Guidance issued by the Secretary of State

2. The guidance entitled “Guidance: Taking reasonable steps to end a residential tenancy agreement within a reasonable time” and issued by the Secretary of State for the purpose of section 33A(6) of the Act comes into force on 1st December 2016.

Prescribed form of notice where all occupants disqualified

3. The form prescribed for the purposes of section 33D(3) of the Act is set out in the Schedule to these Regulations.

(1) 2014 c. 22; sections 33A and 33D were inserted by sections 39(1) and (2) and 40(1) and (2) respectively of the Immigration Act 2016 (c. 19). See section 37(1) of the Immigration Act 2014 for the definition of “prescribed”.

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2nd November 2016

Robert Goodwill
Minister of State
Home Office

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SCHEDULE

Regulation 3

Prescribed form of notice for the purposes of section 33D(3) of the Immigration Act 2014

Section 33D(3) of the Immigration Act 2014

Notice¹ of Eviction and End of Tenancy²

The effect of this notice is to end the tenancy at the end of the specified date. If you do not give up vacant possession of the residential premises by the end of the specified date the landlord may peaceably re-enter the property to take possession of it.

The landlord does not require a court order to repossess the residential premises providing all occupiers are named in the Landlord Notice(s) served under section 33D(2), as disqualified from renting. These notices should be attached to this notice (see page 3) – tick this box to confirm they are attached.

To: [name(s) of the tenant or tenants]³

I / we⁴, as the landlord of the premises below, have been given notice under section 33D(2) of the Immigration Act 2014 by the Secretary of State for the Home Department, advising me/us⁴ that you [and all other occupiers⁵ of the premises]⁴ are disqualified from renting residential premises in England, as a result of your immigration status.

¹ This notice may only be used to end a tenancy where the landlord has received one or more notices from the Home Office informing the landlord that all of the occupiers are disqualified from renting. If not all the occupiers are disqualified from renting (and therefore named in a notice from the Home Office), though some are, the landlord will need to take other steps to end the tenancy and obtain a possession order from the court. This notice cannot be used to end the tenancy in those circumstances. This notice can be used to end a tenancy entered into either before or after the coming into force of section 40 of the Immigration Act 2016.

² This notice may be served by being handed to the tenant or tenants personally or by leaving it at the premises or by sending it to the premises by post (section 33D(5) of the Immigration Act 2014). The landlord should retain proof of service, including the date on which it was served. The notice period cannot expire earlier than at the end of the period of 28 days beginning with the date on which it was served.

⁴ This notice may also be used terminate a licence to occupy, where all the occupiers are disqualified from renting because a tenancy includes a licence to occupy for the purpose of the legislation (see section 20(3) of the Immigration Act 2014). Accordingly references to "tenancy" "tenant" or "landlord" also mean "licence", "licensee" and "licensor" as appropriate. If the tenancy or licence is held jointly by two or more persons this notice must be given to all of those persons (see section 33D(3) of the Immigration Act 2014).

* Delete as appropriate.

⁵ The definition of an occupier is provided in section 33D(8) of the Immigration Act 2014 and means a tenant, a person who, under the residential tenancy agreement, otherwise has the right to occupy the premises and is named in the agreement, and any other person who the landlord knows is occupying the premises.

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A copy of that/ those notice(s) is/ are⁴ attached.

I/ we⁴, therefore require you to give vacant possession of the residential premises, known as:

[Address].....
.....

no later than the end of⁶ [insert date] (the specified date), after which day your tenancy of the residential premises, and right to occupy it, will terminate.

If you fail to give vacant possession by the end of the specified date above, steps can be taken to evict you and all other occupiers from the residential premises without further notice after that date.

This notice is given on..... [Insert date]

To be signed and dated by the landlord or the landlord's agent (someone acting for the landlord). If there are joint landlords, each landlord or the agent must sign unless one signs on behalf of the rest with their agreement.

Signed Date

Please specify whether you are the landlord or the landlord's agent.....

Your contact email/ telephone number.....

Name(s) of the landlord(s) (Block Capitals)

Address of the landlord(s)
.....
.....

Name and address of the agent (in addition to landlord's details, if notice served by the agent) (Block Capitals)
.....
.....

⁶ This date must not be sooner than the end of a period of 28 days beginning with the date this notice is given (section 33D(4) of the Immigration Act 2014), and time for service of the notice should also be factored in. The tenants must vacate the premises by the end of the specified date.

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Landlord Notice(s)

[Fix copies of notices from the Home Office here]

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Notes for the tenant / occupier

This notice is only valid if the landlord has received one or more notices from the Home Office ("the Landlord Notice(s)") which specify that you and all the other occupiers of the residential premises to which it relates, are disqualified from renting in England. This notice is not valid unless a copy /copies of the Landlord Notice(s) is/are attached, or given with this notice. Where two or more Landlord Notices have been received, copies of all those notices must be attached or given with this notice. If you dispute that you and /or the other occupiers listed in the Landlord Notice(s) are all disqualified from renting because of your immigration status, you should contact the Home Office immediately – see the Landlord Notice for contact details.

This notice can only be withdrawn if the landlord receives, before the end of the specified date, written confirmation from the Home Office that you or one of the other occupiers named in the notice are not disqualified from renting, so if you have any doubt about your immigration status or the validity of the notice you must act quickly.

If you require assistance in leaving the United Kingdom, please contact the Home Office, your Embassy/ High Commission or see the advice online at the following website:

<https://www.gov.uk/return-home-voluntarily>

The effect of this notice is to end your tenancy at the end of the specified date. You can end the tenancy earlier by giving vacant possession before the end of the specified date.

This notice is to be treated as a notice to quit where such a notice would ordinarily be required to bring your tenancy to an end. Where this notice is used, you are not entitled to any longer notice period that you may have received had a notice to quit been used to bring your tenancy to an end.

The landlord does not require a court order to repossess the residential premises providing all persons occupying it are named in the Landlord Notice(s) served under section 33D(2), as disqualified from renting.

The tenancy becomes excluded under section 3A(7D) of the Protection from Eviction Act 1977 once the Home Office has served the Landlord Notice(s) under section 33D(2) in relation to all occupiers and section 3(1) of the Protection from Eviction Act 1977 (which requires possession to be obtained through a court order) specifically does not apply to excluded tenancies.

If you do not give up vacant possession of the residential premises by the end of the specified date the landlord may peaceably re-enter the property to take possession of it without letting you know when this will happen.

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The landlord, or anyone acting for the landlord, may not use violence or threats of violence, or manhandle an occupier either to gain entry to or recover possession of the premises, and may not harass you or withdraw services from the premises in order to encourage you to leave. The landlord may not forcibly gain entry to the premises whilst there is someone opposed to the entry present on the premises (e.g. breaking a window to secure entry). These actions would constitute a criminal offence.

Alternatively, the landlord may appoint a High Court Enforcement Officer to recover possession of the premises after the specified date, as this notice is enforceable under section 33D(7) of the Immigration Act 2014 as if it were an order of the High Court.

If you need advice about this notice, or what it means for you and anyone else occupying the premises, you should seek help from Citizens Advice, a housing or immigration adviser or a solicitor immediately.

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EXPLANATORY NOTE

(This note is not part of the Regulations)

Under section 33A(1) of the Immigration Act 2014 (“the 2014 Act”), it is an offence to permit an adult who is disqualified as a result of their immigration status to occupy premises, in England, under a residential tenancy agreement. In determining whether the defence of having taken reasonable steps to terminate the residential tenancy agreement within a reasonable time is made out, a court must have regard to guidance issued by the Secretary of State. Regulation 2 provides for the guidance issued by the Secretary of State for these purposes to come into force on 1st December 2016.

Regulation 3 prescribes the form of notice a landlord must use if the landlord wishes to terminate a residential tenancy agreement in accordance with section 33D(3) of the 2014 Act. Such a notice may only be given in circumstances where the landlord has been notified by the Secretary of State that all known occupants of the property are disqualified from occupying premises in England under a residential tenancy agreement. The notice is enforceable as if it were an order of the High Court.

A full impact assessment has not been published for this instrument as it has minimal impact on the private sector and no impact on the voluntary sector.