

## **Implications of the increase to the Assured Shorthold Tenancy rent threshold**

From 1 October 2010, legislation will come into force in England that increases the annual rent threshold for an assured tenancy to £100,000. At the moment, a tenancy cannot be an assured tenancy if the rent is more than £25,000 a year. These tenancies are known as “common law tenancies”.

### **Will the increase apply to an assured shorthold tenancy?**

Yes. An assured shorthold tenancy (AST) is a type of assured tenancy so the change will apply to an AST. ASTs are the most commonly used form of assured tenancy.

### **Is the change retrospective?**

Common law tenancies that were granted before 1 October 2010 with annual rents between £25,000 and £100,000 that would otherwise have been ASTs (that is, tenancies that meet all the other requirements for being an AST, for example, not a business tenancy or a holiday let) will become ASTs on 1 October 2010.

### **What are the practical implications of the change?**

Landlords will need to comply with special rules that apply to ASTs, in particular:

- The duty to protect rent deposits.
- The procedures for gaining possession of the property.

### **Protection of deposits**

A landlord under an AST must protect the tenant's deposit by using an authorised tenancy deposit scheme (TDS) operated by an approved scheme administrator. There are significant penalties for failing to follow the correct procedures, including **finer** and limitations on how the landlord can recover possession of the property.

Landlords of existing tenancies that will become ASTs on 1 October 2010 should consider protecting any rent deposits taken before 1 October 2010. The requirement to protect deposits will only apply to ASTs granted after 6 April 2007.

### **Possession proceedings**

Generally speaking, a tenant under an AST has a greater degree of protection than that provided by a common law tenancy. Landlords of properties that were originally let on common law tenancies that become ASTs from 1 October 2010 should be especially careful to follow the correct procedure for gaining possession, regardless of the contractual terms of the tenancy.