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Homes (Fitness for Human Habitation)  
Act 2019

Liz Davies, Garden Court Chambers

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## Commencement & scope

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Applies to:

- All new tenancies granted on or after 20 March 2019 (s.9B(3));
- All periodic tenancies that are in existence on 20 March 2019 after a period of twelve months so on 20 March 2020 (s.9B(4));
- All tenancies that come into existence as periodic tenancies after 20 March 2019 on the expiry of a fixed term tenancy granted before 20 March 2019 (s.9B(5));
- All replacement or renewed fixed term tenancies granted after 20 March 2019 on the expiry of a fixed term granted before 20 March 2019 (s.9B(6));
- Tenancies must be periodic or fixed term of less than seven years;
- In England (Renting Homes (Wales) Act 2016, s 91 to come into force).



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## The implied term

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Landlord covenants:

- that the dwelling "*(a) is fit for human habitation at the time the lease is granted or otherwise created or, if later, at the beginning of the term of the lease, and (b) will remain fit for human habitation during the term of the lease*" (s.9A(1));
- Including common parts;
- Note exceptions at s.9A(2) and (3): primarily tenant's fault or Act of God;
- Regard had to hazard definition in Housing Act 2004 and Schedule 1 Housing (Health and Safety Rating System) (England) Regulations 2005.



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## Types of unfitness

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The test (in 1927): "A *rule of thumb*" was said to be: "*if the state of repair of a house is such that by ordinary use damage may naturally be caused to the occupier, either in respect of personal injury to life or limb or injury to health, then the house is not in all respects reasonably fit for human habitation*".

Examples:

- A small house in which the sole window in a main room could not be safely opened;
- Premises where plaster had fallen from the ceiling;
- The complete collapse of a ceiling;
- Accommodation in which a sanitary convenience was defective and serious dampness had accrued from defective guttering;
- The risk of collapse of a further part of a garden retaining wall adjacent to the house;
- Condensation dampness.



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## Enforcement

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Claim for specific performance and damages for breach of implied term:

- Brought by tenant;
- Breach where landlord on notice & failed to remedy within reasonable period (unless common parts);
- Disrepair protocol.



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# Thank you

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