



# Housing Act 1988

## 1988 CHAPTER 50

### PART I

#### RENTED ACCOMMODATION

#### CHAPTER V

##### PHASING OUT OF RENT ACTS AND OTHER TRANSITIONAL PROVISIONS

#### **39 Statutory tenants: succession.**

- (1) In section 2(1)(b) of the Rent Act 1977 (which introduces the provisions of Part I of Schedule 1 to that Act relating to statutory tenants by succession) after the words “statutory tenant of a dwelling-house” there shall be inserted “or, as the case may be, is entitled to an assured tenancy of a dwelling-house by succession”.
- (2) Where the person who is the original tenant, within the meaning of Part I of Schedule 1 to the Rent Act 1977, dies after the commencement of this Act, that Part shall have effect subject to the amendments in Part I of Schedule 4 to this Act.
- (3) Where subsection (2) above does not apply but the person who is the first successor, within the meaning of Part I of Schedule 1 to the Rent Act 1977, dies after the commencement of this Act, that Part shall have effect subject to the amendments in paragraphs 5 to 9 of Part I of Schedule 4 to this Act.
- (4) In any case where the original occupier, within the meaning of section 4 of the Rent (Agriculture) Act 1976 (statutory tenants and tenancies) dies after the commencement of this Act, that section shall have effect subject to the amendments in Part II of Schedule 4 to this Act.
- (5) In any case where, by virtue of any provision of—
  - (a) Part I of Schedule 1 to the <sup>M1</sup>Rent Act 1977, as amended in accordance with subsection (2) or subsection (3) above, or

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**Changes to legislation:** *Housing Act 1988, Section 39 is up to date with all changes known to be in force on or before 02 April 2024. There are changes that may be brought into force at a future date. Changes that have been made appear in the content and are referenced with annotations. (See end of Document for details) View outstanding changes*

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- (b) section 4 of the <sup>M2</sup>Rent (Agriculture) Act 1976, as amended in accordance with subsection (4) above,
- a person (in the following provisions of this section referred to as “the successor”) becomes entitled to an assured tenancy of a dwelling-house by succession, that tenancy shall be a periodic tenancy arising by virtue of this section.
- (6) Where, by virtue of subsection (5) above, the successor becomes entitled to an assured periodic tenancy, that tenancy is one—
- (a) taking effect in possession immediately after the death of the protected or statutory tenant or protected occupier (in the following provisions of this section referred to as “the predecessor”) on whose death the successor became so entitled;
  - (b) deemed to have been granted to the successor by the person who, immediately before the death of the predecessor, was the landlord of the predecessor under his tenancy;
  - (c) under which the premises which are let are the same dwelling-house as, immediately before his death, the predecessor occupied under his tenancy;
  - (d) under which the periods of the tenancy are the same as those for which rent was last payable by the predecessor under his tenancy;
  - (e) under which, subject to sections 13 to 15 above, the other terms are the same as those on which, under his tenancy, the predecessor occupied the dwelling-house immediately before his death; and
  - (f) which, for the purposes of section 13(2) above, is treated as a statutory periodic tenancy;
- and in paragraphs (b) to (e) above “under his tenancy”, in relation to the predecessor, means under his protected tenancy or protected occupancy or in his capacity as a statutory tenant.
- (7) If, immediately before the death of the predecessor, the landlord might have recovered possession of the dwelling-house under Case 19 in Schedule 15 to the Rent Act 1977, the assured periodic tenancy to which the successor becomes entitled shall be an assured shorthold tenancy (whether or not [<sup>F1</sup>, in the case of a tenancy to which the provision applies] it fulfils the conditions in section 20(1) above).
- (8) If, immediately before his death, the predecessor was a protected occupier or statutory tenant within the meaning of the Rent (Agriculture) Act 1976, the assured periodic tenancy to which the successor becomes entitled shall be an assured agricultural occupancy (whether or not it fulfils the conditions in section 24(1) above).
- (9) Where, immediately before his death, the predecessor was a tenant under a fixed term tenancy, section 6 above shall apply in relation to the assured periodic tenancy to which the successor becomes entitled on the predecessor’s death subject to the following modifications—
- (a) for any reference to a statutory periodic tenancy there shall be substituted a reference to the assured periodic tenancy to which the successor becomes so entitled;
  - (b) in subsection (1) of that section, paragraph (a) shall be omitted and the reference in paragraph (b) to section 5(3)(e) above shall be construed as a reference to subsection (6)(e) above; and
  - (c) for any reference to the coming to an end of the former tenancy there shall be substituted a reference to the date of the predecessor’s death.

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- (10) If and so long as a dwelling-house is subject to an assured tenancy to which the successor has become entitled by succession, section 7 above and Schedule 2 to this Act shall have effect subject to the modifications in Part III of Schedule 4 to this Act; and in that Part “the predecessor” and “the successor” have the same meaning as in this section.

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**Textual Amendments**

- F1** Words in s. 39(7) inserted (28.2.1997) by 1996 c. 52, s. 104, **Sch. 8 para. 2(8)**; S.I. 1997/225, **art. 2** (with **Sch.**)

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**Marginal Citations**

- M1** 1977 c. 42.  
**M2** 1976 c. 80.

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**Changes and effects yet to be applied to :**

- specified provision(s) savings for amendments by 2018 anaw 1, s. 6, Sch. 6 by [S.I. 2019/110 reg. 5](#)

**Changes and effects yet to be applied to the whole Act associated Parts and Chapters:**

- Act savings and transitional provisions for amendments by S.I. 2022/1166 by [S.I. 2022/1172 Regulations](#)