



Rent Act 1977

1977 CHAPTER 42

PART XI **E+W**

GENERAL

Sublettings

137 Effect on sub-tenancy of determination of superior tenancy. **E+W**

- (1) If a court makes an order for possession of a dwelling-house from—
- a protected or statutory tenant, or
 - a protected occupier or statutory tenant as defined in the ^{M1}Rent (Agriculture) Act 1976.

and the order is made by virtue of section 98(1) or 99(2) of this Act or, as the case may be, under Part I of Schedule 4 to that Act, nothing in the order shall affect the right of any sub-tenant to whom the dwelling-house or any part of it has been lawfully sublet before the commencement of the proceedings to retain possession by virtue of . . .

^{F1} this Act, nor shall the order operate to give a right to possession against any such sub-tenant.

- (2) Where a statutorily protected tenancy of a dwelling-house is determined, either as a result of an order for possession or for any other reason, any sub-tenant to whom the dwelling-house or any part of it has been lawfully sublet shall, subject to this Act, be deemed to become the tenant of the landlord on the same terms as if the tenant's statutorily protected tenancy had continued.
- (3) Where a dwelling-house—
- forms part of premises which have been let as a whole on a superior tenancy but do not constitute a dwelling-house let on a statutorily protected tenancy; and
 - is itself subject to a protected or statutory tenancy,

then, from the coming to an end of the superior tenancy, this Act shall apply in relation to the dwelling-house as if, in lieu of the superior tenancy, there had been separate

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tenancies of the dwelling-house and of the remainder of the premises, for the like purposes as under the superior tenancy, and at rents equal to the just proportion of the rent under the superior tenancy.

In this subsection “premises” includes, if the sub-tenancy in question is a protected or statutory tenancy to which section 99 of this Act applies, an agricultural holding within the meaning of the [^{F2}Agricultural Holdings Act 1986][^{F3}held under a tenancy to which that Act applied and land comprised in a farm business tenancy within the meaning of the Agricultural Tenancies Act 1995.]

- (4) In subsections (2) and (3) above “statutorily protected tenancy” means—
- (a) a protected or statutory tenancy;
 - (b) a protected occupancy or statutory tenancy as defined in the ^{M2}Rent (Agriculture) Act 1976; or
 - (c) if the sub-tenancy in question is a protected or statutory tenancy to which section 99 of this Act [^{F4}applies—
 - (i) a tenancy of an agricultural holding within the meaning of the Agricultural Holdings Act 1986 which is a tenancy in relation to which that Act applies, or
 - (ii) a farm business tenancy within the meaning of the Agricultural Tenancies Act 1995.]
- (5) Subject to subsection (6) below, a long tenancy of a dwelling-house which is also a tenancy at a low rent but which, had it not been a tenancy at a low rent, would have been a protected tenancy [^{F5}or an assured tenancy, within the meaning of Part I of the Housing Act 1988], shall be treated for the purposes of subsection (2) above as a statutorily protected tenancy.
- (6) Notwithstanding anything in subsection (5) above, subsection (2) above shall not have effect where the sub-tenancy in question was created (whether immediately or derivatively) out of a long tenancy falling within subsection (5) above and, at the time of the creation of the sub-tenancy—
- (a) a notice to terminate the long tenancy had been given under section 4(1) of the ^{M3}Landlord and Tenant Act 1954 [^{F6}or, as the case may be, served under paragraph 4(1) of Schedule 10 to the Local Government and Housing Act 1989]; or
 - (b) the long tenancy was being continued by section 3(1) of [^{F7}the said Act of 1954 or, as the case may be, paragraph 3 of the said Schedule 10];
- unless the sub-tenancy was created with the consent in writing of the person who at the time when it was created was the landlord, within the meaning of [^{F8}Part I of the said Act of 1954 or, as the case may be, the said Schedule 10].
- (7) This section shall apply equally where a protected occupier of a dwelling-house, or part of a dwelling-house, has a relevant licence as defined in the ^{M4}Rent (Agriculture) Act 1976, and in this section “tenancy” and all cognate expressions shall be construed accordingly.

Textual Amendments

- F1** Words repealed by [Housing Act 1988 \(c. 50, SIF 61, 75:1\)](#), s. 140(2), Sch. 17 para. 25, **Sch. 18**
- F2** Words substituted by [Agricultural Holdings Act 1986 \(c. 5, SIF 2:3\)](#), ss. 99, 100, Sch. 13 para. 3, **Sch. 14 para. 60**
- F3** Words in s. 137(3) inserted (1.9.1995) by [1995 c. 8, ss. 40, 41\(2\)](#), **Sch. para. 28(1)(2)** (with s. 37)

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- F4** Words and paras. (i)(ii) in s. 137(4)(c) substituted for words in s. 137(4)(c) (1.9.1995) by 1995 c. 8, ss. 40, 41(2), **Sch. para. 28(1)(3)** (with s. 37)
- F5** Words inserted by Local Government and Housing Act 1989 (c. 42, SIF 75:1), s. 194, **Sch. 11 para. 53(1)**
- F6** Words inserted by Local Government and Housing Act 1989 (c. 42, SIF 75:1), s. 194, **Sch. 11 para. 53(2)(a)**
- F7** Words substituted by Local Government and Housing Act 1989 (c. 42, SIF 75:1), s. 194, **Sch. 11 para. 53(2)(b)**
- F8** Words substituted by Local Government and Housing Act 1989 (c. 42, SIF 75:1), s. 194, **Sch. 11 para. 53(2)(c)**

Modifications etc. (not altering text)

- C1** S. 137 excluded by Housing Act 1980 (c. 51, SIF 61), **s. 54(1)**
- C2** S. 137(2)(5) restricted (1.11.1993) by 1993 c. 28, s. 61, **Sch. 14 para. 3(2)(a)** (with ss. 94(2), 95); S.I. 1993/2134, **arts. 2, 5**

Marginal Citations

- M1** 1976 c. 80.
- M2** 1976 c. 80.
- M3** 1954 c. 56.
- M4** 1976 c. 80.

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