



# Housing Act 1985

## 1985 CHAPTER 68

### PART IV

#### SECURE TENANCIES AND RIGHTS OF SECURE TENANTS

##### Modifications etc. (not altering text)

- C1** S. 47, 48, 50, 51, Pt. IV(ss. 79–117) amended by [Local Government Act 1985](#) (c. 51, SIF 81:1), s. 57(7), [Sch. 13 paras. 22](#) and 23 as substituted by [Housing \(Consequential Provisions\) Act 1985](#) (c. 71, SIF 61), s. 4, [Sch. 2 para. 61](#)
- C2** Pt. IV (ss. 79–117) modified (1.4.1995) by [S.I. 1995/401](#), art. 18, [Sch. para. 8\(c\)](#)
- C3** Pt. IV (ss. 79–117) extended (1.10.1997) by [1996 c. 27](#), ss. 53, 63(4), [Sch. 7 Pt. II para. 7\(3\)\(6\)](#) (with [Sch. 9 paras. 8–10](#)); [S.I. 1997/1892](#), [art. 3](#) (subject to transitional provisions in art. 4(b)(c))

#### *Security of tenure*

#### **79 Secure tenancies.**

- (1) A tenancy under which a dwelling-house is let as a separate dwelling is a secure tenancy at any time when the conditions described in sections 80 and 81 as the landlord condition and the tenant condition are satisfied.
- (2) Subsection (1) has effect subject to—
  - (a) the exceptions in Schedule 1 (tenancies which are not secure tenancies),
  - (b) sections 89(3) and (4) and 90(3) and (4) (tenancies ceasing to be secure after death of tenant), and
  - (c) sections 91(2) and 93(2) (tenancies ceasing to be secure in consequence of assignment of subletting).
- (3) The provisions of this Part apply in relation to a licence to occupy a dwelling-house (whether or not granted for a consideration) as they apply in relation to a tenancy.

*Status: Point in time view as at 01/10/1996. This version of this part contains provisions that are not valid for this point in time.*

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- (4) Subsection (3) does not apply to a licence granted as a temporary expedient to a person who entered the dwelling-house or any other land as a trespasser (whether or not, before the grant of that licence, another licence to occupy that or another dwelling-house had been granted to him).

## 80 The landlord condition.

- (1) The landlord condition is that the interest of the landlord belongs to one of the following authorities or bodies—
- a local authority,
  - a new town corporation,
  - [<sup>F1</sup>a housing action trust]
  - an urban development corporation,
  - the Development Board for Rural Wales,
  - ..... <sup>F2</sup>
  - ..... <sup>F2</sup>
  - ..... <sup>F3</sup> housing co-operative to which this section applies.
- (2) ..... <sup>F4</sup>
- (3) If a co-operative housing association ceases to be [<sup>F5</sup>a registered social landlord], it shall, within the period of 21 days beginning with the date on which it ceases to be [<sup>F5</sup>a registered social landlord], notify each of its tenants who thereby becomes a secure tenant, in writing, that he has become a secure tenant.
- [<sup>F6</sup>(4) This section applies to a housing co-operative within the meaning of section 27B (agreements under certain superseded provisions) where the dwelling-house is comprised in a housing co-operative agreement within the meaning of that section.]

### Textual Amendments

- F1** Words inserted by [Housing Act 1988 \(c. 50, SIF 61\)](#), s. 83(2)
- F2** Words repealed by virtue of [Housing Act 1988 \(c.50, SIF 61\)](#), s. 140(1)(2), Sch. 17 Pt. I para. 106, [Sch. 18](#), note 4
- F3** Words repealed by [Housing Act 1988 \(c.50, SIF 61\)](#), s. 140(2), [Sch. 18](#), note 4
- F4** [S. 80\(2\)](#) repealed by [Housing Act 1988 \(c. 50, SIF 61\)](#), s. 140(2), [Sch. 18](#), note 4 and s. 80(2) as so saved amended (1.10.1996) by S.I. 1996/2325, art. 5(1), [Sch. 2 para. 14\(8\)\(a\)](#)
- F5** Words in s. 80(3) substituted (1.10.1996) by S.I. 1996/2325, art. 5(1), [Sch. 2 para. 14\(8\)\(b\)](#)
- F6** [S. 80\(4\)](#) substituted by [Housing and Planning Act 1986 \(c.63, SIF 61\)](#), s. 24(2), [Sch. 5 Pt. II para. 26](#)

### Modifications etc. (not altering text)

- C4** [S. 80](#) extended (5.7.1994) by [1994 c. 19](#), s. 39, [Sch. 13 para. 21\(c\)](#) (with ss. 54(5)(7), 55(5), [Sch. 17 paras. 22\(1\), 23\(2\)](#))

## 81 The tenant condition.

The tenant condition is that the tenant is an individual and occupies the dwelling-house as his only or principal home; or, where the tenancy is a joint tenancy, that each of the joint tenants is an individual and at least one of them occupies the dwelling-house as his only or principal home.

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## 82 Security of tenure.

- (1) A secure tenancy which is either—
  - (a) a weekly or other periodic tenancy, or
  - (b) a tenancy for a term certain but subject to termination by the landlord,cannot be brought to an end by the landlord except by obtaining an order of the court for the possession of the dwelling-house or an order under subsection (3).
- (2) Where the landlord obtains an order for the possession of the dwelling-house, the tenancy ends on the date on which the tenant is to give up possession in pursuance of the order.
- (3) Where a secure tenancy is a tenancy for a term certain but with a provision for re-entry or forfeiture, the court shall not order possession of the dwelling-house in pursuance of that provision, but in a case where the court would have made such an order it shall instead make an order terminating the tenancy on a date specified in the order and section 86 (periodic tenancy arising on termination of fixed term) shall apply.
- (4) Section 146 of the <sup>M1</sup>Law of Property Act 1925 (restriction on and relief against forfeiture), except subsection (4) (vesting in under-lessee), and any other enactment or rule of law relating to forfeiture, shall apply in relation to proceedings for an order under subsection (3) of this section as if they were proceedings to enforce a right of re-entry or forfeiture.

### Marginal Citations

M1 1925 c. 20.

VALID FROM 30/06/2004

### [F7]82A Demotion because of anti-social behaviour

- (1) This section applies to a secure tenancy if the landlord is—
  - (a) a local housing authority;
  - (b) a housing action trust;
  - (c) a registered social landlord.
- (2) The landlord may apply to a county court for a demotion order.
- (3) A demotion order has the following effect—
  - (a) the secure tenancy is terminated with effect from the date specified in the order;
  - (b) if the tenant remains in occupation of the dwelling-house after that date a demoted tenancy is created with effect from that date;
  - (c) it is a term of the demoted tenancy that any arrears of rent payable at the termination of the secure tenancy become payable under the demoted tenancy;
  - (d) it is also a term of the demoted tenancy that any rent paid in advance or overpaid at the termination of the secure tenancy is credited to the tenant's liability to pay rent under the demoted tenancy.

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- (4) The court must not make a demotion order unless it is satisfied—
- (a) that the tenant or a person residing in or visiting the dwelling-house has engaged or has threatened to engage in conduct to which section 153A or 153B of the Housing Act 1996 (anti-social behaviour or use of premises for unlawful purposes) applies, and
  - (b) that it is reasonable to make the order.
- (5) Each of the following has effect in respect of a demoted tenancy at the time it is created by virtue of an order under this section as it has effect in relation to the secure tenancy at the time it is terminated by virtue of the order—
- (a) the parties to the tenancy;
  - (b) the period of the tenancy;
  - (c) the amount of the rent;
  - (d) the dates on which the rent is payable.
- (6) Subsection (5)(b) does not apply if the secure tenancy was for a fixed term and in such a case the demoted tenancy is a weekly periodic tenancy.
- (7) If the landlord of the demoted tenancy serves on the tenant a statement of any other express terms of the secure tenancy which are to apply to the demoted tenancy such terms are also terms of the demoted tenancy.
- (8) For the purposes of this section a demoted tenancy is—
- (a) a tenancy to which section 143A of the Housing Act 1996 applies if the landlord of the secure tenancy is a local housing authority or a housing action trust;
  - (b) a tenancy to which section 20B of the Housing Act 1988 applies if the landlord of the secure tenancy is a registered social landlord.]

#### Textual Amendments

- F7** S. 82A inserted (30.6.2004 for E. and 30.9.2004 for specified purposes for W. and otherwise 30.4.2005 for W.) by [Anti-social Behaviour Act 2003 \(c. 38\)](#), [ss. 14\(2\)](#), [93\(2\)](#); [S.I. 2004/1502](#), [s. 2\(a\)\(iii\)](#) (subject to [Sch.](#)); [S.I. 2004/2557](#), [art. 2\(a\)\(ii\)](#) (subject to [Sch.](#)); [S.I. 2005/1225](#), [art. 2\(b\)](#)

#### [<sup>F8</sup>83] Proceedings for possession or termination: notice requirements.

- (1) The court shall not entertain proceedings for the possession of a dwelling-house let under a secure tenancy or proceedings for the termination of a secure tenancy unless—
- (a) the landlord has served a notice on the tenant complying with the provisions of this section, or
  - (b) the court considers it just and equitable to dispense with the requirement of such a notice.
- (2) A notice under this section shall—
- (a) be in a form prescribed by regulations made by the Secretary of State,
  - (b) specify the ground on which the court will be asked to make an order for the possession of the dwelling-house or for the termination of the tenancy, and
  - (c) give particulars of that ground.

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- (3) Where the tenancy is a periodic tenancy and the ground or one of the grounds specified in the notice is Ground 2 in Schedule 2 (nuisance or other anti-social behaviour), the notice—
  - (a) shall also—
    - (i) state that proceedings for the possession of the dwelling-house may be begun immediately, and
    - (ii) specify the date sought by the landlord as the date on which the tenant is to give up possession of the dwelling-house, and
  - (b) ceases to be in force twelve months after the date so specified.
- (4) Where the tenancy is a periodic tenancy and Ground 2 in Schedule 2 is not specified in the notice, the notice—
  - (a) shall also specify the date after which proceedings for the possession of the dwelling-house may be begun, and
  - (b) ceases to be in force twelve months after the date so specified.
- (5) The date specified in accordance with subsection (3) or (4) must not be earlier than the date on which the tenancy could, apart from this Part, be brought to an end by notice to quit given by the landlord on the same date as the notice under this section.
- (6) Where a notice under this section is served with respect to a secure tenancy for a term certain, it has effect also with respect to any periodic tenancy arising on the termination of that tenancy by virtue of section 86; and subsections (3) to (5) of this section do not apply to the notice.
- (7) Regulations under this section shall be made by statutory instrument and may make different provision with respect to different cases or descriptions of case, including different provision for different areas.]

#### Textual Amendments

**F8** Ss. 83, 83A substituted for s. 83 (1.10.1996 for specified purposes and 4.2.1997 otherwise) by 1996 c. 52, s. 147(1); S.I. 1996/2402, art. 4; S.I. 1997/66, art. 2 (subject to savings in Sch.)

#### [<sup>F9</sup>83A Additional requirements in relation to certain proceedings for possession.

- (1) Where a notice under section 83 has been served on a tenant containing the information mentioned in subsection (3)(a) of that section, the court shall not entertain proceedings for the possession of the dwelling-house unless they are begun at a time when the notice is still in force.
- (2) Where—
  - (a) a notice under section 83 has been served on a tenant, and
  - (b) a date after which proceedings may be begun has been specified in the notice in accordance with subsection (4)(a) of that section,the court shall not entertain proceedings for the possession of the dwelling-house unless they are begun after the date so specified and at a time when the notice is still in force.
- (3) Where—

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- (a) the ground or one of the grounds specified in a notice under section 83 is Ground 2A in Schedule 2 (domestic violence), and
- (b) the partner who has left the dwelling-house as mentioned in that ground is not a tenant of the dwelling-house,

the court shall not entertain proceedings for the possession of the dwelling-house unless it is satisfied that the landlord has served a copy of the notice on the partner who has left or has taken all reasonable steps to serve a copy of the notice on that partner.

This subsection has effect subject to subsection (5).

(4) Where—

- (a) Ground 2A in Schedule 2 is added to a notice under section 83 with the leave of the court after proceedings for possession are begun, and
- (b) the partner who has left the dwelling-house as mentioned in that ground is not a party to the proceedings,

the court shall not continue to entertain the proceedings unless it is satisfied that the landlord has served a notice under subsection (6) on the partner who has left or has taken all reasonable steps to serve such a notice on that partner.

This subsection has effect subject to subsection (5).

(5) Where subsection (3) or (4) applies and Ground 2 in Schedule 2 (nuisance or other anti-social behaviour) is also specified in the notice under section 83, the court may dispense with the requirements as to service in relation to the partner who has left the dwelling-house if it considers it just and equitable to do so.

(6) A notice under this subsection shall—

- (a) state that proceedings for the possession of the dwelling-house have begun,
- (b) specify the ground or grounds on which possession is being sought, and
- (c) give particulars of the ground or grounds.]

#### Textual Amendments

**F9** Ss. 83, 83A substituted for s. 83 (1.10.1996 for specified purposes and 4.2.1997 otherwise) by 1996 c. 52, s. 147(1); S.I. 1996/2402, art. 4; S.I. 1997/66, art. 2 (subject to savings in Sch.)

## 84 Grounds and orders for possession.

- (1) The court shall not make an order for the possession of a dwelling-house let under a secure tenancy except on one or more of the grounds set out in Schedule 2.
- (2) The court shall not make an order for possession—
  - (a) on the grounds set out in Part I of that Schedule (grounds 1 to 8), unless it considers it reasonable to make the order,
  - (b) on the grounds set out in Part II of that Schedule (grounds 9 to 11), unless it is satisfied that suitable accommodation will be available for the tenant when the order takes effect,
  - (c) on the grounds set out in Part III of that Schedule (grounds 12 to 16), unless it both considers it reasonable to make the order and is satisfied that suitable accommodation will be available for the tenant when the order takes effect;

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and Part IV of that Schedule has effect for determining whether suitable accommodation will be available for a tenant.

[<sup>F10</sup>(3) Where a notice under section 83 has been served on the tenant, the court shall not make such an order on any of those grounds above unless the ground is specified in the notice; but the grounds so specified may be altered or added to with the leave of the court.

(4) Where a date is specified in a notice under section 83 in accordance with subsection (3) of that section, the court shall not make an order which requires the tenant to give up possession of the dwelling-house in question before the date so specified.]

#### Textual Amendments

**F10** S. 84(3)(4) substituted for s. 84(3) (1.10.1996 for specified purposes and 4.2.1997 otherwise) by 1996 c. 52, s. 147(2); S.I. 1996/2402, art. 4; S.I. 1997/66, art. 2 (with savings in Sch.)

### 85 Extended discretion of court in certain proceedings for possession.

- (1) Where proceedings are brought for possession of a dwelling-house let under a secure tenancy on any of the grounds set out in Part I or Part III of Schedule 2 (grounds 1 to 8 and 12 to 16: cases in which the court must be satisfied that it is reasonable to make a possession order), the court may adjourn the proceedings for such period or periods as it thinks fit.
- (2) On the making of an order for possession of such a dwelling-house on any of those grounds, or at any time before the execution of the order, the court may—
  - (a) stay or suspend the execution of the order, or
  - (b) postpone the date of possession,
 for such period or periods as the court thinks fit.
- (3) On such an adjournment, stay, suspension or postponement the court—
  - (a) shall impose conditions with respect to the payment by the tenant of arrears of rent (if any) and rent or payments in respect of occupation after the termination of the tenancy (mesne profits), unless it considers that to do so would cause exceptional hardship to the tenant or would otherwise be unreasonable, and
  - (b) may impose such other conditions as it thinks fit.
- (4) If the conditions are complied with, the court may, if it thinks fit, discharge or rescind the order for possession.
- (5) Where proceedings are brought for possession of a dwelling-house which is let under a secure tenancy and—
  - (a) the tenant's spouse or former spouse, having rights of occupation under the <sup>M2</sup>Matrimonial Homes Act 1983, is then in occupation of the dwelling-house, and
  - (b) the tenancy is terminated as a result of those proceedings,
 the spouse or former spouse shall, so long as he or she remains in occupation, have the same rights in relation to, or in connection with, any adjournment, stay, suspension or postponement in pursuance of this section as he or she would have if those rights of occupation were not affected by the termination of the tenancy.

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### Marginal Citations

M2 1983 c. 19.

VALID FROM 30/06/2004

### [<sup>F11</sup>85A Proceedings for possession: anti-social behaviour

- (1) This section applies if the court is considering under section 84(2)(a) whether it is reasonable to make an order for possession on ground 2 set out in Part 1 of Schedule 2 (conduct of tenant or other person).
- (2) The court must consider, in particular—
  - (a) the effect that the nuisance or annoyance has had on persons other than the person against whom the order is sought;
  - (b) any continuing effect the nuisance or annoyance is likely to have on such persons;
  - (c) the effect that the nuisance or annoyance would be likely to have on such persons if the conduct is repeated.]

### Textual Amendments

**F11** S. 85A inserted (30.6.2004 for E. and 30.9.2004 for W.) by [Anti-social Behaviour Act 2004 \(c. 38\)](#), ss. [16\(1\)](#), [93\(2\)](#); S.I. 2004/1502, [art. 2\(a\)\(v\)](#) (subject to [Sch.](#)); S.I. 2004/2557, [art. 2\(a\)\(iii\)](#), [Sch.](#)

## 86 Periodic tenancy arising on termination of fixed term.

- (1) Where a secure tenancy (“the first tenancy”) is a tenancy for a term certain and comes to an end—
  - (a) by effluxion of time, or
  - (b) by an order of the court under section 82(3) (termination in pursuance of provision for re-entry or forfeiture),
 a periodic tenancy of the same dwelling-house arises by virtue of this section, unless the tenant is granted another secure tenancy of the same dwelling-house (whether a tenancy for a term certain or a periodic tenancy) to begin on the coming to an end of the first tenancy.
- (2) Where a periodic tenancy arises by virtue of this section—
  - (a) the periods of the tenancy are the same as those for which rent was last payable under the first tenancy, and
  - (b) the parties and the terms of the tenancy are the same as those of the first tenancy at the end of it;
 except that the terms are confined to those which are compatible with a periodic tenancy and do not include any provision for re-entry or forfeiture.



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### Succession on death of tenant

#### 87 Persons qualified to succeed tenant.

A person is qualified to succeed the tenant under a secure tenancy if he occupies the dwelling-house as his only or principal home at the time of the tenant's death and either—

- (a) he is the tenant's spouse, or
- (b) he is another member of the tenant's family and has resided with the tenant throughout the period of twelve months ending with the tenant's death;

unless, in either case, the tenant was himself a successor, as defined in section 88.

#### Modifications etc. (not altering text)

C5 s. 87 modified (1.11.1993) by 1993 c. 28, s. 37, Sch. 10 para. 2(3); S.I. 1993/2134, arts. 2, 5(a).

#### 88 Cases where the tenant is a successor.

- (1) The tenant is himself a successor if—
  - (a) the tenancy vested in him by virtue of section 89 (succession to a periodic tenancy), or
  - (b) he was a joint tenant and has become the sole tenant, or
  - (c) the tenancy arose by virtue of section 86 (periodic tenancy arising on ending of term certain) and the first tenancy there mentioned was granted to another person or jointly to him and another person, or
  - (d) he became the tenant on the tenancy being assigned to him (but subject to subsections (2) and (3)), or
  - (e) he became the tenant on the tenancy being vested in him on the death of the previous tenant.
- (2) A tenant to whom the tenancy was assigned in pursuance of an order under section 24 of the <sup>M3</sup>Matrimonial Causes Act 1973 (property adjustment orders in connection with matrimonial proceedings) [<sup>F12</sup>or section 17(1) of the Matrimonial and Family Proceedings Act 1984 (property adjustment orders after overseas divorce, &c.)] is a successor only if the other party to the marriage was a successor.
- (3) A tenant to whom the tenancy was assigned by virtue of section 92 (assignments by way of exchange) is a successor only if he was a successor in relation to the tenancy which he himself assigned by virtue of that section.
- (4) Where within six months of the coming to an end of a secure tenancy which is a periodic tenancy (“the former tenancy”) the tenant becomes a tenant under another secure tenancy which is a periodic tenancy, and—
  - (a) the tenant was a successor in relation to the former tenancy, and
  - (b) under the other tenancy either the dwelling-house or the landlord, or both, are the same as under the former tenancy,
 the tenant is also a successor in relation to the other tenancy unless the agreement creating that tenancy otherwise provides.

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#### Textual Amendments

**F12** Words in s. 88(2) inserted (1.10.1996) by 1996 c. 52, s. 222, **Sch. 18 Pt. III para. 9**; S.I. 1996/2402, **art. 3** (subject to transitional provisions and savings in **Sch.**)

#### Modifications etc. (not altering text)

**C6** s. 88 modified (1.11.1993) by 1993 c. 28, s. 37, **Sch. 10 para.2(3)**; S.I. 1993/2134, **arts. 2, 5(a)**.

#### Marginal Citations

**M3** 1973 c. 18.

### 89 Succession to periodic tenancy.

- (1) This section applies where a secure tenant dies and the tenancy is a periodic tenancy.
- (2) Where there is a person qualified to succeed the tenant, the tenancy vests by virtue of this section in that person, or if there is more than one such person in the one to be preferred in accordance with the following rules—
  - (a) the tenant’s spouse is to be preferred to another member of the tenant’s family;
  - (b) of two or more other members of the tenant’s family such of them is to be preferred as may be agreed between them or as may, where there is no such agreement, be selected by the landlord.
- [<sup>F13</sup>(3) Where there is no person qualified to succeed the tenant, the tenancy ceases to be a secure tenancy—
  - (a) when it is vested or otherwise disposed of in the course of the administration of the tenant’s estate, unless the vesting or other disposal is in pursuance of an order made under—
    - (i) section 24 of the Matrimonial Causes Act 1973 (property adjustment orders made in connection with matrimonial proceedings),
    - (ii) section 17(1) of the Matrimonial and Family Proceedings Act 1984 (property adjustment orders after overseas divorce, &c.), or
    - (iii) paragraph 1 of Schedule 1 to the Children Act 1989 (orders for financial relief against parents); or
  - (b) when it is known that when the tenancy is so vested or disposed of it will not be in pursuance of such an order.]
- (4) A tenancy which ceases to be a secure tenancy by virtue of this section cannot subsequently become a secure tenancy.

#### Textual Amendments

**F13** S. 89(3) substituted (1.10.1996) by 1996 c. 52, s. 222, **Sch. 18 Pt. III para. 10**; S.I. 1996/2402, **art. 3** (subject to transitional provisions and savings in **Sch.**)

#### Modifications etc. (not altering text)

**C7** S. 89 modified (1.11.1993) by 1993 c. 28, s. 37, **Sch. 10 para. 2(3)**; S.I. 1993/2134, **arts. 2, 5(a)**.

**Status:** Point in time view as at 01/10/1996. This version of this part contains provisions that are not valid for this point in time.

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## 90 Devolution of term certain.

- (1) This section applies where a secure tenant dies and the tenancy is a tenancy for a term certain.
- (2) The tenancy remains a secure tenancy until—
  - (a) it is vested or otherwise disposed of in the course of the administration of the tenant’s estate, as mentioned in subsection (3), or
  - (b) it is known that when it is so vested or disposed of it will not be a secure tenancy.
- (3) The tenancy ceases to be a secure tenancy on being vested or otherwise disposed of in the course of administration of the tenant’s estate, unless—
  - [<sup>F14</sup>(a) the vesting or other disposal is in pursuance of an order made under—
    - (i) section 24 of the Matrimonial Causes Act 1973 (property adjustment orders in connection with matrimonial proceedings),
    - (ii) section 17(1) of the Matrimonial and Family Proceedings Act 1984 (property adjustment orders after overseas divorce, &c.), or
    - (iii) paragraph 1 of Schedule 1 to the Children Act 1989 (orders for financial relief against parents), or]
    - (b) the vesting or other disposal is to a person qualified to succeed the tenant.
- (4) A tenancy which ceases to be a secure tenancy by virtue of this section cannot subsequently become a secure tenancy.

### Textual Amendments

**F14** S. 90(3)(a) substituted for s. 90(3)(a) and the word “or” at the end of the paragraph (1.10.1996) by 1996 c. 52, s. 222, **Sch. 18 Pt. III para. 11**; S.I. 1996/2402, **art. 3** (subject to transitional provisions and savings in **Sch.**)

### Modifications etc. (not altering text)

**C8** S. 90 modified (1.11.1993) by 1993 c. 28, s. 37, **Sch. 10 para. 2(3)**; S.I. 1993/2134, **arts. 2, 5(a)**.

## *Assignment, lodgers and subletting*

## 91 Assignment in general prohibited.

- (1) A secure tenancy which is—
  - (a) a periodic tenancy, or
  - (b) a tenancy for a term certain granted on or after 5th November 1982,
 is not capable of being assigned except in the cases mentioned in subsection (3).
- (2) If a secure tenancy for a term certain granted before 5th November 1982 is assigned, then, except in the cases mentioned in subsection (3), it ceases to be a secure tenancy and cannot subsequently become a secure tenancy.
- (3) The exceptions are—
  - (a) an assignment in accordance with section 92 (assignment by way of exchange);
  - [<sup>F15</sup>(b) an assignment in pursuance of an order made under—

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- (i) section 24 of the Matrimonial Causes Act 1973 (property adjustment orders in connection with matrimonial proceedings),
  - (ii) section 17(1) of the Matrimonial and Family Proceedings Act 1984 (property adjustment orders after overseas divorce, &c.), or
  - (iii) paragraph 1 of Schedule 1 to the Children Act 1989 (orders for financial relief against parents);]
- (c) an assignment to a person who would be qualified to succeed the tenant if the tenant died immediately before the assignment.

#### Textual Amendments

**F15** S. 91(3)(b) substituted (1.10.1996) by 1996 c. 52, s. 222, Sch. 18 Pt. III para. 12; S.I. 1996/2402, art. 3 (subject to transitional provisions and savings in Sch.)

## 92 Assignments by way of exchange.

- (1) It is a term of every secure tenancy that the tenant may, with the written consent of the landlord, assign the tenancy to another secure tenant who satisfies the condition in subsection (2) [<sup>F16</sup>or to an assured tenant who satisfies the conditions in subsection (2A)].
- (2) The condition is that the other secure tenant has the written consent of his landlord to an assignment of his tenancy either to the first-mentioned tenant or to another secure tenant who satisfies the condition in this subsection.

[<sup>F17</sup>(2A) The conditions to be satisfied with respect to an assured tenant are—

- (a) that the landlord under his assured tenancy is either the Housing Corporation, Housing for Wales, a [<sup>F18</sup>a registered social landlord] or a housing trust which is a charity; and
  - (b) that he intends to assign his assured tenancy to the secure tenant referred to in subsection (1) or to another secure tenant who satisfies the condition in subsection (2).]
- (3) The consent required by virtue of this section shall not be withheld except on one or more of the grounds set out in Schedule 3, and if withheld otherwise than on one of those grounds shall be treated as given.
- (4) The landlord may not rely on any of the grounds set out in Schedule 3 unless he has, within 42 days of the tenant's application for the consent, served on the tenant a notice specifying the ground and giving particulars of it.
- (5) Where rent lawfully due from the tenant has not been paid or an obligation of the tenancy has been broken or not performed, the consent required by virtue of this section may be given subject to a condition requiring the tenant to pay the outstanding rent, remedy the breach or perform the obligation.
- (6) Except as provided by subsection (5), a consent required by virtue of this section cannot be given subject to a condition, and a condition imposed otherwise than as so provided shall be disregarded.

#### Textual Amendments

**F16** Words added by Local Government and Housing Act 1989 (c. 42, SIF 61), s. 163(1)

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**F17** S. 92(2A) inserted by Local Government and Housing Act 1989 (c. 42, SIF 61), s. 163(3)

**F18** Words in s. 92(2A)(a) substituted (1.10.1996) by S.I. 1996/2325, art. 5(1), Sch. 2 para. 14(9)

### **93 Lodgers and subletting.**

- (1) It is a term of every secure tenancy that the tenant—
  - (a) may allow any persons to reside as lodgers in the dwelling-house, but
  - (b) will not, without the written consent of the landlord, sublet or part with possession of part of the dwelling-house.
- (2) If the tenant under a secure tenancy parts with the possession of the dwelling-house or sublets the whole of it (or sublets first part of it and then the remainder), the tenancy ceases to be a secure tenancy and cannot subsequently become a secure tenancy.

### **94 Consent to subletting.**

- (1) This section applies to the consent required by virtue of section 93(1)(b) (landlord's consent to subletting of part of dwelling-house).
- (2) Consent shall not be unreasonably withheld (and if unreasonably withheld shall be treated as given), and if a question arises whether the withholding of consent was unreasonable it is for the landlord to show that it was not.
- (3) In determining that question the following matters, if shown by the landlord, are among those to be taken into account—
  - (a) that the consent would lead to overcrowding of the dwelling-house within the meaning of Part X (overcrowding);
  - (b) that the landlord proposes to carry out works on the dwelling-house, or on the building of which it forms part, and that the proposed works will affect the accommodation likely to be used by the sub-tenant who would reside in the dwelling-house as a result of the consent.
- (4) Consent may be validly given notwithstanding that it follows, instead of preceding, the action requiring it.
- (5) Consent cannot be given subject to a condition (and it purporting to be given subject to a condition shall be treated as given unconditionally).
- (6) Where the tenant has applied in writing for consent, then—
  - (a) if the landlord refuses to give consent, it shall give the tenant a written statement of the reasons why consent was refused, and
  - (b) if the landlord neither gives nor refuses to give consent within a reasonable time, consent shall be taken to have been withheld.

### **95 Assignment or subletting where tenant condition not satisfied.**

- (1) This section applies to a tenancy which is not a secure tenancy but would be if the tenant condition referred to in section 81 (occupation by the tenant) were satisfied.
- (2) Sections 91 and 93(2) (restrictions on assignment or sub-letting of whole dwelling-house) apply to such a tenancy as they apply to a secure tenancy, except that—
  - (a) section 91(3)(b) and (c) (assignments excepted from restrictions) do not apply to such a tenancy for a term certain granted before 5th November 1982, and

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- (b) references to the tenancy ceasing to be secure shall be disregarded, without prejudice to the application of the remainder of the provisions in which those references occur.

### *Repairs and improvements*

#### **[<sup>F19</sup>96 Right to have repairs carried out.**

- (1) The Secretary of State may make regulations for entitling secure tenants whose landlords are local housing authorities, subject to and in accordance with the regulations, to have qualifying repairs carried out, at their landlords' expense, to the dwelling-houses of which they are such tenants.
- (2) The regulations may make all or any of the following provisions, namely—
  - (a) provision that, where a secure tenant makes an application to his landlord for a qualifying repair to be carried out, the landlord shall issue a repair notice—
    - (i) specifying the nature of the repair, the listed contractor by whom the repair is to be carried out and the last day of any prescribed period; and
    - (ii) containing such other particulars as may be prescribed;
  - (b) provision that, if the contractor specified in a repair notice fails to carry out the repair within a prescribed period, the landlord shall issue a further repair notice specifying such other listed contractor as the tenant may require; and
  - (c) provision that, if the contractor specified in a repair notice fails to carry out the repair within a prescribed period, the landlord shall pay to the tenant such sum by way of compensation as may be determined by or under the regulations.
- (3) The regulations may also make such procedural, incidental, supplementary and transitional provisions as may appear to the Secretary of State necessary or expedient, and may in particular—
  - (a) require a landlord to take such steps as may be prescribed to make its secure tenants aware of the provisions of the regulations;
  - (b) require a landlord to maintain a list of contractors who are prepared to carry out repairs for which it is responsible under the regulations;
  - (c) provide that, where a landlord issues a repair notice, it shall give to the tenant a copy of the notice and the prescribed particulars of at least two other listed contractors who are competent to carry out the repair;
  - (d) provide for questions arising under the regulations to be determined by the county court; and
  - (e) enable the landlord to set off against any compensation payable under the regulations any sums owed to it by the tenant.
- (4) Nothing in subsection (2) or (3) shall be taken as prejudicing the generality of subsection (1).
- (5) Regulations under this section—
  - (a) may make different provision with respect to different cases or descriptions of case, including different provision for different areas, and
  - (b) shall be made by statutory instrument which shall be subject to annulment in pursuance of a resolution of either House of Parliament.
- (6) In this section—

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“listed contractor”, in relation to a landlord, means any contractor (which may include the landlord) who is specified in the landlord’s list of contractors;

“qualifying repair”, in relation to a dwelling-house, means any repair of a prescribed description which the landlord is obliged by a repairing covenant to carry out;

“repairing covenant”, in relation to a dwelling-house, means a covenant, whether express or implied, obliging the landlord to keep in repair the dwelling-house or any part of the dwelling-house;

and for the purposes of this subsection a prescribed description may be framed by reference to any circumstances whatever.]

#### Textual Amendments

**F19** S. 96 substituted (1.12.1993) by 1993 c. 28, s. 121; S.I. 1993/2762, art. 4(a) (with saving in art. 5(1)).

#### Modifications etc. (not altering text)

**C9** S. 96 extended (1.10.1996) by 1996 c. 52, s. 135; S.I. 1996/2402, art. 3 (subject to transitional provisions and savings in Sch.)

### 97 Tenant’s improvements require consent.

- (1) It is a term of every secure tenancy that the tenant will not make any improvement without the written consent of the landlord.
- (2) In this Part “improvement” means any alteration in, or addition to, a dwelling-house, and includes—
  - (a) any addition to or alteration in landlord’s fixtures and fittings,
  - (b) any addition or alteration connected with the provision of services to the dwelling-house,
  - (c) the erection of a wireless or television aerial, and
  - (d) the carrying out of external decoration.
- (3) The consent required by virtue of subsection (1) shall not be unreasonably withheld, and if unreasonably withheld shall be treated as given.
- (4) The provisions of this section have effect, in relation to secure tenancies, in place of section 19(2) of the <sup>M4</sup>Landlord and Tenant Act 1927 (general provisions as to covenants, &c. not to make improvements without consent).

#### Marginal Citations

**M4** 1927 c. 36.

### 98 Provisions as to consents required by s. 97.

- (1) If a question arises whether the withholding of a consent required by virtue of section 97 (landlord’s consent to improvements) was unreasonable, it is for the landlord to show that it was not.
- (2) In determining that question the court shall, in particular, have regard to the extent to which the improvement would be likely—

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- (a) to make the dwelling-house, or any other premises, less safe for occupiers,
  - (b) to cause the landlord to incur expenditure which it would be unlikely to incur if the improvement were not made, or
  - (c) to reduce the price which the dwelling-house would fetch if sold on the open market or the rent which the landlord would be able to charge on letting the dwelling-house.
- (3) A consent required by virtue of section 97 may be validly given notwithstanding that it follows, instead of preceding, the action requiring it.
- (4) Where a tenant has applied in writing for a consent which is required by virtue of section 97—
- (a) the landlord shall if it refuses consent give the tenant a written statement of the reason why consent was refused, and
  - (b) if the landlord neither gives nor refuses to give consent within a reasonable time, consent shall be taken to have been withheld.

## **99 Conditional consent to improvements.**

- (1) Consent required by virtue of section 97 (landlord's consent to improvements) may be given subject to conditions.
- (2) If the tenant has applied in writing for consent and the landlord gives consent subject to an unreasonable condition, consent shall be taken to have been unreasonably withheld.
- (3) If a question arises whether a condition was reasonable, it is for the landlord to show that it was.
- (4) A failure by a secure tenant to satisfy a reasonable condition imposed by his landlord in giving consent to an improvement which the tenant proposes to make, or has made, shall be treated for the purposes of this Part as a breach by the tenant of an obligation of his tenancy.

## **[<sup>F20</sup>99A Right to compensation for improvements.**

- (1) The powers conferred by this section shall be exercisable as respects cases where a secure tenant has made an improvement and—
- (a) the work on the improvement was begun not earlier than the commencement of section 122 of the Leasehold Reform, Housing and Urban Development Act 1993,
  - (b) the landlord, or a predecessor in title of the landlord (being a local authority), has given its written consent to the improvement or is to be treated as having given its consent, and
  - (c) at the time when the tenancy comes to an end the landlord is a local authority and the tenancy is a secure tenancy.
- (2) The Secretary of State may make regulations for entitling the qualifying person or persons (within the meaning given by section 99B)—
- (a) at the time when the tenancy comes to an end, and
  - (b) subject to and in accordance with the regulations,
- to be paid compensation by the landlord in respect of the improvement.
- (3) The regulations may provide that compensation shall be not payable if—



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- (a) the improvement is not of a prescribed description,
- (b) the tenancy comes to an end in prescribed circumstances,
- (c) compensation has been paid under section 100 in respect of the improvement, or
- (d) the amount of any compensation which would otherwise be payable is less than a prescribed amount;

and for the purposes of this subsection a prescribed description may be framed by reference to any circumstances whatever.

- (4) The regulations may provide that the amount of any compensation payable shall not exceed a prescribed amount but, subject to that, shall be determined by the landlord, or calculated, in such manner, and taking into account such matters, as may be prescribed.
- (5) The regulations may also make such procedural, incidental, supplementary and transitional provisions as may appear to the Secretary of State necessary or expedient, and may in particular—
  - (a) provide for the manner in which and the period within which claims for compensation under the regulations are to be made, and for the procedure to be followed in determining such claims,
  - (b) prescribe the form of any document required to be used for the purposes of or in connection with such claims,
  - (c) provide for questions arising under the regulations to be determined by the district valuer or the county court, and
  - (d) enable the landlord to set off against any compensation payable under the regulations any sums owed to it by the qualifying person or persons.
- (6) Nothing in subsections (3) to (5) shall be taken as prejudicing the generality of subsection (2).
- (7) Regulations under this section—
  - (a) may make different provision with respect to different cases or descriptions of case, including different provision for different areas, and
  - (b) shall be made by statutory instrument which (except in the case of regulations making only such provision as is mentioned in subsection (5)(b)) shall be subject to annulment in pursuance of a resolution of either House of Parliament.
- (8) For the purposes of this section and section 99B, a tenancy shall be treated as coming to an end if—
  - (a) it ceases to be a secure tenancy by reason of the landlord condition no longer being satisfied, or
  - (b) it is assigned, with the consent of the landlord—
    - (i) to another secure tenant who satisfies the condition in subsection (2) of section 92 (assignments by way of exchange), or
    - (ii) to an assured tenant who satisfies the conditions in subsection (2A) of that section.]

#### Textual Amendments

**F20** S. 99A, 99B inserted (1.2.1994) by 1993 c. 28, s. 122; S.I. 1993/2762, art. 4(b) (with saving in art. 5(2)).

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## **F<sup>21</sup>99B Persons qualifying for compensation.**

- (1) A person is a qualifying person for the purposes of section 99A(2) if—
  - (a) he is, at the time when the tenancy comes to an end, the tenant or, in the case of a joint tenancy at that time, one of the tenants, and
  - (b) he is a person to whom subsection (2) applies.
- (2) This subsection applies to—
  - (a) the improving tenant;
  - (b) a person who became a tenant jointly with the improving tenant;
  - (c) a person in whom the tenancy was vested, or to whom the tenancy was disposed of, under section 89 (succession to periodic tenancy) or section 90 (devolution of term certain) on the death of the improving tenant or in the course of the administration of his estate;
  - (d) a person to whom the tenancy was assigned by the improving tenant and who would have been qualified to succeed him if he had died immediately before the assignment;
  - [<sup>F22</sup>(e) a person to whom the tenancy was assigned by the improving tenant in pursuance of an order made under—
    - (i) section 24 of the Matrimonial Causes Act 1973 (property adjustment orders in connection with matrimonial proceedings),
    - (ii) section 17(1) of the Matrimonial and Family Proceedings Act 1984 (property adjustment orders after overseas divorce, &c.), or
    - (iii) paragraph 1 of Schedule 1 to the Children Act 1989 (orders for financial relief against parents);]
    - (f) a spouse or former spouse of the improving tenant to whom the tenancy has been transferred by an order under paragraph 2 of Schedule 1 to the Matrimonial Homes Act 1983.
- (3) Subsection (2)(c) does not apply in any case where the tenancy ceased to be a secure tenancy by virtue of section 89(3) or, as the case may be, section 90(3).
- (4) Where, in the case of two or more qualifying persons, one of them (“the missing person”) cannot be found—
  - (a) a claim under regulations made under section 99A may be made by, and compensation under those regulations may be paid to, the other qualifying person or persons; but
  - (b) the missing person shall be entitled to recover his share of any compensation so paid from that person or those persons.
- (5) In this section “the improving tenant” means—
  - (a) the tenant by whom the improvement mentioned in section 99A(1) was made, or
  - (b) in the case of a joint tenancy at the time when the improvement was made, any of the tenants at that time.

### **Textual Amendments**

**F21** S. 99A, 99B inserted (1.2.1994) by 1993 c. 28, s. 122; S.I. 1993/2762, art. 4(b) (with saving in art. 5(2)).

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**F22** S. 99B(2)(e) substituted (1.10.1996) by 1996 c. 52, s. 222, **Sch. 18 Pt. III para. 13**; S.I. 1996/2402, **art. 3** (subject to transitional provisions and savings in **Sch.**)

## 100 Power to reimburse cost of tenant's improvements.

- (1) Where a secure tenant has made an improvement and—
    - (a) the work on the improvement was begun on or after 3rd October, 1980,
    - (b) the landlord, or a predecessor in title of the landlord, has given its written consent to the improvement or is treated as having given its consent, and
    - (c) the improvement has materially added to the price which the dwelling-house may be expected to fetch if sold on the open market, or the rent which the landlord may be expected to be able to charge on letting the dwelling-house,the landlord may, at or after the end of the tenancy, make to the tenant (or his personal representatives) such payment in respect of the improvement as the landlord considers to be appropriate.
  - (2) The amount which a landlord may pay under this section in respect of an improvement shall not exceed the cost, or likely cost, of the improvement after deducting the amount of any improvement grant, intermediate grant, special grant [<sup>F23</sup>or repairs grant][<sup>F23</sup>, repairs grant or common parts grant] under Part XV in respect of the improvement.
- [<sup>F24</sup>(2A) In subsection (2)—
- (a) the reference to an improvement grant under Part XV includes a reference to a renovation grant, disabled facilities grant or HMO grant under Part VIII of the Local Government and Housing Act 1989; and
  - (b) the reference to a common parts grant under Part XV includes a reference to a common parts grant under the said Part VIII.]
- (3) The power conferred by this section to make such payments as are mentioned in subsection (1) is in addition to any other power of the landlord to make such payments.

### Textual Amendments

**F23** Words “, repairs grant or common parts grant” substituted (*prosp.*) for words “or repairs grant” by Housing and Planning Act 1986 (c. 63, SIF 61), ss. 15, 57(2), **Sch. 3 Pt. I para. 16(2)**

**F24** S.100(2A) inserted by Local Government and Housing Act 1989 (c. 42, SIF 61), s. 194(1), **Sch. 11 para. 66**

## 101 Rent not to be increased on account of tenant's improvements.

- (1) This section applies where a person (the “improving tenant”) who is or was the secure tenant of a dwelling-house has lawfully made an improvement and has borne the whole or part of its cost; and for the purposes of this section a person shall be treated as having borne any cost which he would have borne but for an improvement grant, intermediate grant, special grant or [<sup>F25</sup>, repairs grant or common parts grant] under Part XV.

[<sup>F26</sup>(1A) In subsection (1)—

- (a) the reference to an improvement grant under Part XV includes a reference to a renovation grant, disabled facilities grant or HMO grant under Part VIII of the Local Government and Housing Act 1989; and

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- (b) the reference to a common parts grant under Part XV includes a reference to a common parts grant under the said Part VIII.]
- (2) In determining, at any time whilst the improving tenant or his qualifying successor is a secure tenant of the dwelling-house, whether or to what extent to increase the rent, the landlord shall treat the improvement as justifying only such part of an increase which would otherwise be attributable to the improvement as corresponds to the part of the cost which was not borne by the tenant (and accordingly as not justifying an increase if he bore the whole cost).
- (3) The following are qualifying successors of an improving tenant—
- [<sup>F27</sup>(a) a person in whom the tenancy was vested, or to whom the tenancy was disposed of, under section 89 (succession to periodic tenancy) or section 90 (devolution of term certain) on the death of the tenant or in the course of the administration of his estate;]
- (b) a person to whom the tenancy was assigned by the tenant and who would have been qualified to succeed him if he had died immediately before the assignment,
- [<sup>F28</sup>(c) a person to whom the tenancy was assigned by the tenant in pursuance of an order made under—
- (i) section 24 of the Matrimonial Causes Act 1973 (property adjustment orders in connection with matrimonial proceedings),
- (ii) section 17(1) of the Matrimonial and Family Proceedings Act 1984 (property adjustment orders after overseas divorce, &c.), or
- (iii) paragraph 1 of Schedule 1 to the Children Act 1989 (orders for financial relief against parents);]
- (d) a spouse or former spouse of the tenant to whom the tenancy has been transferred by an order under paragraph 22 of Schedule 1 to the <sup>M5</sup>Matrimonial Homes Act 1983.
- (4) This section does not apply to an increase of rent attributable to rates [<sup>F29</sup>or to council tax].

#### Textual Amendments

- F25** Words substituted by [Housing and Planning Act 1986 \(c. 63, SIF 61\)](#), ss. 15, 57(2), **Sch. 3 Pt. II para. 16(3)**
- F26** [S. 101\(1A\)](#) inserted by [Local Government and Housing Act 1989 \(c. 42, SIF 61\)](#), s. 194(1), **Sch. 11 para. 67**
- F27** [S. 101\(3\)\(a\)](#) substituted (11.10.1993) by [1993 c. 28, s. 187\(1\)](#), **Sch. 21 para. 10**; [S.I. 1993/2134](#), arts. 2, 4(a).
- F28** [S. 101\(3\)\(c\)](#) substituted (1.10.1996) by [1996 c. 52, s. 222](#), **Sch. 18 Pt. III para. 14**; [S.I. 1996/2402](#), **art. 3** (subject to transitional provisions and savings in [Sch.](#))
- F29** Words in [s. 101\(4\)](#) inserted (1.4.1993) by [S.I. 1993/651](#), art. 2(1), **Sch. 1 para. 12**.

#### Marginal Citations

- M5** [1983 c. 19](#).

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### Variation of terms of tenancy

#### 102 Variation of terms of secure tenancy.

- (1) The terms of a secure tenancy may be varied in the following ways, and not otherwise—
  - (a) by agreement between the landlord and the tenant;
  - (b) to the extent that the variation relates to rent or to payments in respect of rates <sup>F30</sup>, council tax]or services, by the landlord or the tenant in accordance with a provision in the lease or agreement creating the tenancy, or in an agreement varying it;
  - (c) in accordance with section 103 (notice of variation of periodic tenancy).
- (2) References in this section and section 103 to variation include addition and deletion; and for the purposes of this section the conversion of a monthly tenancy into a weekly tenancy, or a weekly tenancy into a monthly tenancy, is a variation of a term of the tenancy, but a variation of the premises let under a tenancy is not.
- (3) This section and section 103 do not apply to a term of a tenancy which—
  - (a) is implied by an enactment, or
  - (b) may be varied under section 93 of the <sup>M6</sup>Rent Act 1977 (housing association and other tenancies: increase of rent without notice to quit).
- (4) This section and section 103 apply in relation to the terms of a periodic tenancy arising by virtue of section 86 (periodic tenancy arising on termination of a fixed term) as they would have applied to the terms of the first tenancy mentioned in that section had that tenancy been a periodic tenancy.

#### Textual Amendments

**F30** Words in S. 102(1)(b) inserted (1.4.1993) by S.I. 1993/651, art. 2(1), Sch. 1 para. 13.

#### Marginal Citations

**M6** 1977 c. 42.

#### 103 Notice of variation of periodic tenancy.

- (1) The terms of a secure tenancy which is a periodic tenancy may be varied by the landlord by a notice of variation served on the tenant.
- (2) Before serving a notice of variation on the tenant the landlord shall serve on him a preliminary notice—
  - (a) informing the tenant of the landlord's intention to serve a notice of variation,
  - (b) specifying the proposed variation and its effect, and
  - (c) inviting the tenant to comment on the proposed variation within such time, specified in the notice, as the landlord considers reasonable;and the landlord shall consider any comments made by the tenant within the specified time.
- (3) Subsection (2) does not apply to a variation of the rent, or of payments in respect of services or facilities provided by the landlord or of payments in respect of rates.

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- (4) The notice of variation shall specify—
- (a) the variation effected by it, and
  - (b) the date on which it takes effect;
- and the period between the date on which it is served and the date on which it takes effect must be at least four weeks or the rental period, whichever is the longer.
- (5) The notice of variation, when served, shall be accompanied by such information as the landlord considers necessary to inform the tenant of the nature and effect of the variation.
- (6) If after the service of a notice of variation the tenant, before the date on which the variation is to take effect, gives a valid notice to quit, the notice of variation shall not take effect unless the tenant, with the written agreement of the landlord, withdraws his notice to quit before that date.

*Provision of information and consultation*

**104 Provision of information about tenancies.**

- (1) Every body which lets dwelling-houses under secure tenancies shall from time to time publish information about its secure tenancies, in such form as it considers best suited to explain in simple terms, and so far as it considers it appropriate, the effect of—
- (a) the express terms of its secure tenancies,
  - (b) the provisions of this Part and Part V (the right to buy), and
  - (c) the provisions of sections 11 to 16 of the <sup>M7</sup>Landlord and Tenant Act 1985 (landlord’s repairing obligations),
- and shall ensure that so far as is reasonably practicable the information so published is kept up to date.
- (2) The landlord under a secure tenancy shall supply the tenant with—
- (a) a copy of the information for secure tenants published by it under subsection (1), and
  - (b) a written statement of the terms of the tenancy, so far as they are neither expressed in the lease or written tenancy agreement (if any) nor implied by law;
- and the statement required by paragraph (b) shall be supplied on the grant of the tenancy or as soon as practicable afterwards.
- [<sup>F31</sup>(3) A local authority which is the landlord under a secure tenancy shall supply the tenant, at least once in every relevant year, with a copy of such information relating to the provisions mentioned in subsection (1)(b) and (c) as was last published by it; and in this subsection “relevant year” means any period of twelve months beginning with an anniversary of the date of such publication.]

**Textual Amendments**

**F31** S. 104(3) inserted (11.10.1993) by 1993 c. 28, s. 123; S.I. 1993/2134, arts 2, 4(a).

**Marginal Citations**

**M7** 1985 c. 70.

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*Status:* Point in time view as at 01/10/1996. This version of this part contains provisions that are not valid for this point in time.

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## 105 Consultation on matters of housing management.

- (1) A landlord authority shall maintain such arrangements as it considers appropriate to enable those of its secure tenants who are likely to be substantially affected by a matter of housing management to which this section applies—
  - (a) to be informed of the authority’s proposals in respect of the matter, and
  - (b) to make their views known to the authority within a specified period;
 and the authority shall, before making any decision on the matter, consider any representations made to it in accordance with those arrangements.
- (2) For the purposes of this section, a matter is one of housing management if, in the opinion of the landlord authority, it relates to—
  - (a) the management, maintenance, improvement or demolition of dwelling-houses let by the authority under secure tenancies, or
  - (b) the provision of services or amenities in connection with such dwelling-houses;
 but not so far as it relates to the rent payable under a secure tenancy or to charges for services or facilities provided by the authority.
- (3) This section applies to matters of housing management which, in the opinion of the landlord authority, represent—
  - (a) a new programme of maintenance, improvement or demolition, or
  - (b) a change in the practice or policy of the authority,
 and are likely substantially to affect either its secure tenants as a whole or a group of them who form a distinct social group or occupy dwelling-houses which constitute a distinct class (whether by reference to the kind of dwelling-house, or the housing estate or other larger area in which they are situated).
- (4) In the case of a landlord authority which is a local housing authority, the reference in subsection (2) to the provision of services or amenities is a reference only to the provision of services or amenities by the authority acting in its capacity as landlord of the dwelling-houses concerned.
- (5) A landlord authority shall publish details of the arrangements which it makes under this section, and a copy of the documents published under this subsection shall—
  - (a) be made available at the authority’s principal office for inspection at all reasonable hours, without charge, by members of the public, and
  - (b) be given, on payment of a reasonable fee, to any member of the public who asks for one.
- (6) A landlord authority which is a [<sup>F32</sup>registered social landlord] shall, instead of complying with paragraph (a) of subsection (5), send a copy of any document published under that subsection—
  - (a) to the [<sup>F33</sup>Corporation], and
  - (b) to the council of any district [<sup>F34</sup>, Welsh county or county borough] or London borough in which there are dwelling-houses let by the [<sup>F35</sup>landlord authority] under secure tenancies;
 and a council to whom a copy is sent under this subsection shall make it available at its principal office for inspection at all reasonable hours, without charge, by members of the public.

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#### Textual Amendments

- F32** Words in s. 105(6) substituted (1.10.1996) by S.I. 1996/2325, art. 5(1), **Sch. 2 para. 14(10)(a)**
- F33** Words substituted by **Housing Act 1988 (c. 50, SIF 61)**, s. 140(1), **Sch. 17 Pt. II para. 106**
- F34** Words in s. 105(6)(b) inserted (1.4.1996) by 1994 c. 19, s. 22(2), Sch. 8 para. 5(7) (with ss. 54(5)(7), 55(5), Sch. 17 paras. 22(1), 23(2)); S.I. 1996/396, art. 3, **Sch. 1**
- F35** Word in s. 105(6)(b) substituted (1.10.1996) by S.I. 1996/2325, art. 5(1), **Sch. 2 para. 14(10)(b)**

#### Modifications etc. (not altering text)

- C10** S. 105 excluded by **Housing Act 1988 (c. 50, SIF 61)**, s. 84(8)

### 106 Information about housing allocation.

- (1) A landlord authority shall publish a summary of its rules—
- (a) for determining priority as between applicants in the allocation of its housing accommodation, and
  - (b) governing cases where secure tenants wish to move (whether or not by way of exchange of dwelling-houses) to other dwelling-houses let under secure tenancies by that authority or another body.
- (2) A landlord authority shall—
- (a) maintain a set of the rules referred to in subsection (1) and of the rules which it has laid down governing the procedure to be followed in allocating its housing accommodation, and
  - (b) make them available at its principal office for inspection at all reasonable hours, without charge, by members of the public.
- (3) A landlord authority which is a [<sup>F36</sup>registered social landlord] shall, instead of complying with paragraph (b) of sub-section (2), send a set of the rules referred to in paragraph (a) of that subsection—
- (a) to the [<sup>F37</sup>Corporation], and
  - (b) to the council of any district [<sup>F38</sup>, Welsh county or county borough] or London borough in which there are dwelling-houses let or to be let by the [<sup>F39</sup>landlord authority] under secure tenancies;
- and a council to whom a set of rules is sent under this subsection shall make it available at its principal office for inspection at all reasonable hours, without charge, by members of the public.
- (4) A copy of the summary published under subsection (1) shall be given without charge, and a copy of the set of rules maintained under subsection (2) shall be given on payment of a reasonable fee, to any member of the public who asks for one.
- (5) At the request of a person who has applied to it for housing accommodation, a landlord authority shall make available to him, at all reasonable times and without charge, details of the particulars which he has given to the authority about himself and his family and which the authority has recorded as being relevant to his application for accommodation.

#### Textual Amendments

- F36** Words in s. 106(3) substituted (1.10.1996) by S.I. 1996/2325, art. 5(1), **Sch. 2 para. 14(11)(a)**



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- F37** Words substituted by [Housing Act 1988 \(c. 50, SIF 61\)](#), s. 140(1), **Sch. 17 Pt. II para. 106**
- F38** Words in s. 106(3)(b) inserted (1.4.1996) by 1994 c. 19, s. 22(2), Sch. 8 para. 5(7) (with ss. 54(5)(7), 55(5), Sch. 17 paras. 22(1), 23(2)); S.I. 1996/396, art. 3, **Sch. 1**
- F39** Word in s. 106(3)(b) substituted (1.10.1996) by S.I. 1996/2325, art. 5(1), **Sch. 2 para. 14(11)(b)**

**Modifications etc. (not altering text)**

- C11** S. 106(5) excluded by Access to [Personal Files Act 1987 \(c. 37, SIF 106:1\)](#), s. 1(3)(5)

**[<sup>F40</sup>106A Consultation before disposal to private sector landlord.**

- (1) The provisions of Schedule 3A have effect with respect to the duties of—
  - (a) a local authority proposing to dispose of dwelling-houses subject to secure tenancies, and
  - (b) the Secretary of State in considering whether to give his consent to such a disposal,
 to have regard to the views of tenants liable as a result of the disposal to cease to be secure tenants.

- (2) In relation to a disposal to which that Schedule applies, the provisions of that Schedule apply in place of the provisions of section 105 (consultation on matters of housing management).]

- [<sup>F41</sup>(3)** That Schedule, and this section, do not apply in relation to any disposal of an interest in land by a local authority if—

- (a) the interest has been acquired by the authority (whether compulsorily or otherwise) following the making of an order for compulsory purchase under any enactment, other than section 290 (acquisition of land for clearance),
- (b) the order provides that the interest is being acquired for the purpose of disposal to a registered social landlord, and
- (c) such a disposal is made within one year of the acquisition.

- (4) In this section “registered social landlord” has the same meaning as in Part I of the Housing Act 1996.]

**Textual Amendments**

- F40** S. 106A inserted by [Housing and Planning Act 1986 \(c. 63, SIF 61\)](#), s. 6(1)(3)
- F41** S. 106A(3)(4) inserted (1.10.1996) by 1996 c. 52, s. 222, **Sch. 18 para. 23**; S.I. 1996/2402, **art. 3** (subject to transitional provisions and to savings in [Sch.](#))

*Miscellaneous*

**<sup>F42</sup>107** .....

**Textual Amendments**

- F42** S. 107 repealed by [Local Government and Housing Act 1989 \(c. 42, SIF 61\)](#), ss. 168(4), 194(4), **Sch. 12 Pt. II**

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## 108 Heating charges

- (1) This section applies to secure tenants of dwelling-houses to which a heating authority supply heat produced at a heating installation.
- (2) The Secretary of State may by regulations require heating authorities to adopt such methods for determining heating charges payable by such tenants as will secure that the proportion of heating costs borne by each of those tenants is no greater than is reasonable.
- (3) The Secretary of State may by regulations make provision for entitling such tenants, subject to and in accordance with the regulations, to require the heating authority—
  - (a) to give them, in such form as may be prescribed by the regulations, such information as to heating charges and heating costs as may be so prescribed, and
  - (b) where such information has been given, to afford them reasonable facilities for inspecting the accounts, receipts and other documents supporting the information and for taking copies or extracts from them.
- (4) Regulations under this section—
  - (a) May make different provision with respect to different cases or descriptions of case, including different provision for different areas;
  - (b) may make such procedural, incidental, supplementary and transitional provision as appears to the Secretary of State to be necessary or expedient, and may in particular provide for any question arising under the regulations to be referred to and determined by the county court; and
  - (c) shall be made by statutory instrument which shall be subject to annulment in pursuance of a resolution of either House of Parliament.
- (5) In this section—
  - (a) “heating authority” means a housing authority [<sup>F43</sup>or housing action trust] who operate a heating installation and supply to premises heat produced at the installation;
  - (b) “heating installation” means a generating station or other installation for producing heat;
  - (c) references to heat produced at an installation include steam produced from, and air and water heated by, heat so produced;
  - (d) “heating charge” means an amount payable to a heating authority in respect of heat produced at a heating installation and supplied to premises, including in the case of heat supplied to premises let by the authority such an amount payable as part of the rent;
  - (e) “heating costs” means expenses incurred by a heating authority in operating a heating installation.

### Textual Amendments

**F43** Words inserted by [Housing Act 1988 \(c. 50, SIF 61\)](#), s. 83(3)

## 109 Provisions not applying to tenancies of co-operative housing associations.

Sections 91 to 108 (assignment and subletting, repairs and improvements, variation of terms, provision of information and consultation, contributions to costs of transfers

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and heating charges) do not apply to a tenancy when the interest of the landlord belongs to a co-operative housing association.

### Supplementary provisions

#### [<sup>F44</sup>109A Acquisition of dwelling-house subject to statutory tenancy.

Where an authority or body within section 80 (the landlord condition for secure tenancies) becomes the landlord of a dwelling-house subject to a statutory tenancy, the tenancy shall be treated for all purposes as if it were a contractual tenancy on the same terms, and the provisions of this Part apply accordingly.]

#### Textual Amendments

**F44** S. 109A and heading inserted by [Housing and Planning Act 1986 \(c.63, SIF 61\)](#), s. 24(1)(b), Sch. 5 Pt. I para. 2

#### 110 Jurisdiction of county court.

- (1) A county court has jurisdiction to determine questions arising under this Part and to entertain proceedings brought under this Part and claims, for whatever amount, in connection with a secure tenancy.
- (2) That jurisdiction includes jurisdiction to entertain proceedings on the following questions—
  - (a) whether a consent required by section 92 (assignment by way of exchange) was withheld otherwise than on one or more of the grounds set out in Schedule 3,
  - (b) whether a consent required by section 93(1)(b) or 97(1) (landlord's consent to subletting of part of dwelling-house or to carrying out of improvements) was withheld or unreasonably withheld, or
  - (c) whether a statement supplied in pursuance of section 104(2)(b) (written statement of certain terms of tenancy) is accurate,notwithstanding that no other relief is sought than a declaration.

[<sup>F45</sup>(3) If a person takes proceedings in the High Court which, by virtue of this section, he could have taken in the county court, he is not entitled to recover any costs.]

#### Textual Amendments

**F45** S. 110(3) repealed (*prosp.*) by [Courts and Legal Services Act 1990 \(c. 41, SIF 76:1\)](#), ss. 124(3)(4), 125(7), [Sch. 20](#)

#### 111 County court rules and directions.

- (1) The Lord Chancellor may make such rules and give such directions as he thinks fit for the purpose of giving effect to—
  - (a) section 85 (extended discretion of court in certain proceedings for possession),and

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- (b) section 110 (jurisdiction of county court to determine questions arising under this Part).
- (2) The rules and directions may provide—
  - (a) for the exercise by a registrar of a county court of any jurisdiction exercisable under the provisions mentioned in subsection (1), and
  - (b) for the conduct of proceedings in private.
- (3) The power to make rules is exercisable by statutory instrument which shall be subject to annulment in pursuance of a resolution of either House of Parliament.

VALID FROM 12/02/1997

**[<sup>F46</sup>111A Introductory tenancies**

Sections 102(1), (2) and (3)(a), 103 and 108 apply in relation to introductory tenancies as they apply in relation to secure tenancies.]

**Textual Amendments**

**F46** S. 111A inserted (12.2.1997) by S.I. 1997/74, art. 2, Sch. para. 3(i)

**112 Meaning of “dwelling-house”.**

- (1) For the purposes of this Part a dwelling-house may be a house or a part of a house.
- (2) Land let together with a dwelling-house shall be treated for the purposes of this Part as part of the dwelling-house unless the land is agricultural land (as defined in section 26(3)(a) of the <sup>M8</sup>General Rate Act 1967) exceeding two acres.

**Marginal Citations**

**M8** 1967 c. 9.

**113 Members of a person’s family.**

- (1) A person is a member of another’s family within the meaning of this Part if—
  - (a) he is the spouse of that person, or he and that person live together as husband and wife, or
  - (b) he is that person’s parent, grandparent, child, grand-child, brother, sister, uncle, aunt, nephew or niece.
- (2) For the purpose of subsection (1)(b)—
  - (a) a relationship by marriage shall be treated as a relationship by blood,
  - (b) a relationship of the half-blood shall be treated as a relationship of the whole blood,
  - (c) the stepchild of a person shall be treated as his child, and
  - (d) an illegitimate child shall be treated as the legitimate child of his mother and reputed father.

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#### Modifications etc. (not altering text)

- C12** S. 113 applied by [Housing Act 1988 \(c. 50, SIF 61\), s. 28\(5\)](#)
- C13** S. 113 applied by Protection from Eviction Act 1977 (c.43, SIF 75:1), [s. 3A\(5\)](#) as inserted by [Housing Act 1988 \(c.50, SIF 61\), ss. 31, 42\(2\)\(b\)](#)
- C14** S. 113 applied by [Local Government and Housing Act 1989 \(c. 42, SIF 61\), s. 138\(2\)](#)  
S. 113 applied (17.12.1996) by 1996 c. 53, [s. 98\(1\)](#); S.I. 1996/2842, [art. 3](#)  
S. 113 applied (11.9.1996 for specified purposes and 16.12.1997 otherwise) by 1996 c. 53, [s. 140\(4\)](#);  
S.I. 1996/2352, [art. 2\(2\)](#); S.I. 1997/2846, [art. 2](#)

### 114 Meaning of “landlord authority”.

- (1) In this Part “landlord authority” means—  
a local housing authority,  
a [<sup>F47</sup>registered social landlord] other than a co-operative housing association,  
a housing trust which is a charity,  
a development corporation,  
[<sup>F48</sup>a housing action trust]  
an urban development corporation, or  
the Development Board for Rural Wales,  
other than an authority in respect of which an exemption certificate has been issued.
- (2) The Secretary of State may, on an application duly made by the authority concerned, issue an exemption certificate to—  
a development corporation,  
[<sup>F48</sup>a housing action trust]  
an urban development corporation, or  
the Development Board for Rural Wales,  
if he is satisfied that it has transferred, or otherwise disposed of, at least three-quarters of the dwellings which have at any time before the making of the application been vested in it.
- (3) The application shall be in such form and shall be accompanied by such information as the Secretary of State may, either generally or in relation to a particular case, direct.

#### Textual Amendments

- F47** Words in the definition of “landlord authority” in s. 114(1) substituted (1.10.1996) by [S.I. 1996/2325, art. 5\(1\), Sch. 2 para. 14\(12\)](#)
- F48** Words inserted by [Housing Act 1988 \(c. 50, SIF 61\), s. 83\(4\)](#)

### 115 Meaning of “long tenancy”.

- (1) The following are long tenancies for the purposes of this Part, subject to subsection (2)
- 
- (a) a tenancy granted for a term certain exceeding 21 years, whether or not it is (or may become) terminable before the end of that term by notice given by the tenant or by re-entry or forfeiture;

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- (b) a tenancy for a term fixed by law under a grant with a covenant or obligation for perpetual renewal, other than a tenancy by sub-demise from one which is not a long tenancy;
  - (c) any tenancy granted in pursuance of Part V (the right to buy).
- (2) A tenancy granted so as to become terminable by notice after a death is not a long tenancy for the purposes of this Part, unless—
- (a) it is granted by a housing association which at the time of the grant is [<sup>F49</sup>a registered social landlord],
  - (b) it is granted at a premium calculated by reference to a percentage of the value of the dwelling-house or of the cost of providing it, and
  - (c) at the time it is granted it complies with the requirements of the regulations then in force under section 140(4)(b) of the <sup>M9</sup>Housing Act 1980 [<sup>F50</sup>or paragraph 4(2)(b) of schedule 4A to the Leasehold Reform Act 1967] (conditions for exclusion of shared ownership leases from Part I of the <sup>M10</sup>Leasehold Reform Act 1967) or, in the case of a tenancy granted before any such regulations were brought into force, with the first such regulations to be in force.

#### Textual Amendments

**F49** Words in s. 115(2)(a) substituted (1.10.1996) by S.I. 1996/2325, art. 5(1), **Sch. 2 para. 14(13)**

**F50** Words inserted by **Housing Act 1988 (c. 50, SIF 61)**, s. 140(1), **Sch. 17 Pt. I para. 40**

#### Marginal Citations

**M9** 1980 c. 51

**M10** 1967 c. 88.

VALID FROM 04/02/1997

#### [<sup>F51</sup>115A Meaning of “introductory tenancy”.

In this Part “introductory tenancy” has the same meaning as in Chapter I of Part V of the Housing Act 1996.]

#### Textual Amendments

**F51** S. 115A inserted (4.2.1997) by 1996 c. 52, s. 141(1), **Sch. 14 para. 3**; S.I. 1997/66, **art. 2** (subject to savings in **Sch.**)

## 116 Minor definitions.

In this Part—

“common parts”, in relation to a dwelling-house let under a tenancy, means any part of a building comprising the dwelling-house and any other premises which the tenant is entitled under the terms of the tenancy to use in common with the occupiers of other dwelling-houses let by the landlord;

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“housing purposes” means the purposes for which dwelling-houses are held by local housing authorities under Part II (provision of housing) or purposes corresponding to those purposes;

“rental period” means a period in respect of which a payment of rent falls to be made;

“term”, in relation to a secure tenancy, includes a condition of the tenancy.

## 117 Index of defined expressions: Part IV

The following Table shows provisions defining or otherwise explaining expressions used in this Part (other than provisions defining or explaining an expression in the same section or paragraph):—

[ <sup>F52</sup> assured tenancy]	[ <sup>F52</sup> section 622]
cemetery	section 622
charity	section 622
common parts (in relation to a dwelling-house let under a tenancy)	section 116
[ <sup>F53</sup> consent (in Schedule 3A)]	[ <sup>F53</sup> paragraph 2(3) of that Schedule]
co-operative housing association	section 5(2)
[ <sup>F54</sup> the Corporation]	[ <sup>F54</sup> section 6A]
development corporation	section 4(c)
dwelling-house	section 112
family (member of)	section 113
housing association	section 5(1)
housing authority	section 4(a)
housing purposes	section 116
housing trust	section 6
improvement	section 97(2)
[ <sup>F55</sup> landlord (in Part V of Schedule 2)]	[ <sup>F55</sup> paragraph 5 of that Part]
landlord authority	section 114
local authority	section 4(e)
local housing authority	section 1, 2(2)
long tenancy	section 115
[ <sup>F53</sup> management agreement and manager]	[ <sup>F53</sup> sections 27(2) and 27B(4)]
new town corporation	section 4(b)
qualified to succeed (on the death of a secure tenant)	section 87
[ <sup>F56</sup> registered social landlord]	[ <sup>F56</sup> section 5(4) and (5)]
rental period	section 116

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secure tenancy	section 79
term (in relation to a secure tenancy)	section 116
urban development corporation	section 4(d)
variation (of the terms of a secure tenancy)	section 102(2)

#### Textual Amendments

- F52** Entry inserted by [Local Government and Housing Act 1989 \(c. 42, SIF 61\)](#), **s. 163(4)**
- F53** Words in [s. 117](#) inserted (17.8.1992) by [Housing and Planning Act 1986 \(c. 63, SIF 61\)](#), [s. 24\(2\)](#), **Sch. 5 Pt. II para. 27**; S.I. 1992/1753, **art. 2(2)**
- F54** Entry inserted by [Housing Act 1988 \(c. 50, SIF 61\)](#), [s. 140\(1\)](#), **Sch. 17 Pt. II para. 109**
- F55** Words in [s. 117](#) inserted (*prosp.*) by [Housing and Planning Act 1986 \(c. 63, SIF 61\)](#), [ss. 24\(2\)](#), [57\(2\)](#), **Sch. 5 Pt. II para. 27**
- F56** Entry in [s. 117](#) substituted (1.10.1996) by S.I. 1996/2325, [art. 5\(1\)](#), **Sch. 2 para. 14(14)**



**Status:**

Point in time view as at 01/10/1996. This version of this part contains provisions that are not valid for this point in time.

**Changes to legislation:**

Housing Act 1985, PART IV is up to date with all changes known to be in force on or before 20 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.