



Landlord and Tenant Act 1987

1987 CHAPTER 31

PART I

TENANTS' RIGHTS OF FIRST REFUSAL

Preliminary

1 Qualifying tenants to have rights of first refusal on disposals by landlord.

- (1) A landlord shall not make a relevant disposal affecting any premises to which at the time of the disposal this Part applies unless—
 - (a) he has in accordance with section 5 previously served a notice under that section with respect to the disposal on the qualifying tenants of the flats contained in those premises (being a notice by virtue of which rights of first refusal are conferred on those tenants); and
 - (b) the disposal is made in accordance with the requirements of sections 6 to 10.
- (2) Subject to subsections (3) and (4), this Part applies to premises if—
 - (a) they consist of the whole or part of a building; and
 - (b) they contain two or more flats held by qualifying tenants; and
 - (c) the number of flats held by such tenants exceeds 50 per cent. of the total number of flats contained in the premises.
- (3) This Part does not apply to premises falling within subsection (2) if—
 - (a) any part or parts of the premises is or are occupied or intended to be occupied otherwise than for residential purposes; and
 - (b) the internal floor area of that part or those parts (taken together) exceeds 50 per cent. of the internal floor area of the premises (taken as a whole);and for the purposes of this subsection the internal floor area of any common parts shall be disregarded.
- (4) This Part also does not apply to any such premises at a time when the interest of the landlord in the premises is held by an exempt landlord or a resident landlord.

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- (5) The Secretary of State may by order substitute for the percentage for the time being specified in subsection (3)(b) such other percentage as is specified in the order.

2 Landlords for the purposes of Part I.

- (1) Subject to subsection (2) [^{F1}and section 4(1A)], a person is for the purposes of this Part the landlord in relation to any premises consisting of the whole or part of a building if he is—
- (a) the immediate landlord of the qualifying tenants of the flats contained in those premises, or
 - (b) where any of those tenants is a statutory tenant, the person who, apart from the statutory tenancy, would be entitled to possession of the flat in question.
- (2) Where the person who is, in accordance with subsection (1), the landlord in relation to any such premises for the purposes of this Part (“the immediate landlord”) is himself a tenant of those premises under a tenancy which is either—
- (a) a tenancy for a term of less than seven years, or
 - (b) a tenancy for a longer term but terminable within the first seven years at the option of the person who is the landlord under that tenancy (“the superior landlord”),

the superior landlord shall also be regarded as the landlord in relation to those premises for the purposes of this Part and, if the superior landlord is himself a tenant of those premises under a tenancy falling within paragraph (a) or (b) above, the person who is the landlord under that tenancy shall also be so regarded (and so on).

Textual Amendments

F1 Words inserted by [Housing Act 1988 \(c. 50, SIF 75:1\)](#), s. 119, [Sch. 13 para. 1](#)

3 Qualifying tenants.

- (1) Subject to the following provisions of this section, a person is for the purposes of this Part a qualifying tenant of a flat if he is the tenant of the flat under a tenancy other than—
- (a) a protected shorthold tenancy as defined in section 52 of the ^{M1}Housing Act 1980;
 - (b) a tenancy to which Part II of the ^{M2}Landlord and Tenant Act 1954 (business tenancies) applies; . . . ^{F2}
 - (c) a tenancy terminable on the cessation of his employment [^{F3}or
 - (d) an assured tenancy or assured agricultural occupancy within the meaning of Part I of the Housing Act 1988].
- (2) A person is not to be regarded as being a qualifying tenant of any flat contained in any particular premises consisting of the whole or part of a building if [^{F4}by virtue of one or more tenancies none of which falls within paragraphs (a) to (d) of subsection (1), he is the tenant not only of the flat in question but also of at least two other flats contained in those premises].

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- (3) For the purposes of subsection [F5(2)] any tenant of a flat contained in the premises in question who is a body corporate shall be treated as the tenant of any other flat so contained and let to an associated company.
- (4) A tenant of a flat whose landlord is a qualifying tenant of that flat is not to be regarded as being a qualifying tenant of that flat.

Textual Amendments

- F2** Word repealed by [Housing Act 1988 \(c. 50, SIF 61, 75:1\)](#), ss. 119, 140, Sch. 13 para. 2(1), **Sch. 18**
- F3** [S. 3\(1\)\(d\)](#) and the word “or” immediately preceding it added by [Housing Act 1988 \(c. 50, SIF 75:1\)](#), s. 119, **Sch. 13 para. 2(1)**
- F4** Words substituted for paragraphs (a) and (b) by [Housing Act 1988 \(c. 50, SIF 75:1\)](#), s. 119, **Sch. 13 para. 2(2)**
- F5** “(2)” substituted for “(2)(b)” by [Housing Act 1988 \(c. 50, SIF 75:1\)](#), s. 119, **Sch. 13 para. 2(2)**

Marginal Citations

- M1** 1980 c. 51.
- M2** 1954 c. 56.

4 Relevant disposals.

- (1) In this Part references to a relevant disposal affecting any premises to which this Part applies are references to the disposal by the landlord of any estate or interest (whether legal or equitable) in any such premises, including the disposal of any such estate or interest in any common parts of any such premises but excluding—
 - (a) the grant of any tenancy under which the demised premises consist of a single flat (whether with or without any appurtenant premises); and
 - (b) any of the disposals falling within subsection (2).

[F6(1A) Where an estate or interest of the landlord has been mortgaged, the reference in subsection (1) above to the disposal of an estate or interest by the landlord includes a reference to its disposal by the mortgagee in exercise of a power of sale or leasing, whether or not the disposal is made in the name of the landlord; and, in relation to such a proposed disposal by the mortgagee, any reference in the following provisions of this Part to the landlord shall be construed as a reference to the mortgagee.]

- (2) The disposals referred to in subsection (1)(b) are—
 - (a) a disposal of—
 - (i) any interest of a beneficiary in settled land within the meaning of the ^{M3}Settled Land Act 1925, [F7 or]
 - (ii) F7
 - (iii) any incorporeal hereditament;
 - [F7(aa) a disposal F8 . . . by way of security for a loan]
 - (b) a disposal to a trustee in bankruptcy or to the liquidator of a company;
 - [F9(c) a disposal 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 24A of the Matrimonial Causes Act 1973 (orders for the sale of property in connection with matrimonial proceedings) where

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- the order includes provision requiring the property concerned to be offered for sale to a person or class of persons specified in the order,
- (iii) section 2 of the Inheritance (Provision for Family and Dependants) Act 1975 (orders as to financial provision to be made from estate),
 - (iv) section 17(1) of the Matrimonial and Family Proceedings Act 1984 (property adjustment orders after overseas divorce, &c.),
 - (v) section 17(2) of the Matrimonial and Family Proceedings Act 1984 (orders for the sale of property after overseas divorce, &c.) where the order includes provision requiring the property concerned to be offered for sale to a person or class of persons specified in the order, or
 - (vi) paragraph 1 of Schedule 1 to the Children Act 1989 (orders for financial relief against parents);]
- (d) a disposal in pursuance of a compulsory purchase order or in pursuance of an agreement entered into in circumstances where, but for the agreement, such an order would have been made or (as the case may be) carried into effect;
 - [^{F10}(da) a disposal of any freehold or leasehold interest in pursuance of Chapter I of Part I of the Leasehold Reform, Housing and Urban Development Act 1993;]
 - (e) a disposal by way of gift to a member of the landlord’s family or to a charity;
 - (f) a disposal by one charity to another of an estate or interest in land which prior to the disposal is functional land of the first-mentioned charity and which is intended to be functional land of the other charity once the disposal is made;
 - (g) a disposal consisting of the transfer of an estate or interest held on trust for any person where the disposal is made in connection with the appointment of a new trustee or in connection with the discharge of any trustee;
 - (h) a disposal consisting of a transfer by two or more persons who are members of the same family either—
 - (i) to fewer of their number, or
 - (ii) to a different combination of members of the family (but one that includes at least one of the transferors);
 - [^{F11}(i) a disposal in pursuance of a contract, option or right of pre-emption binding on the landlord (except as provided by section 8D (application of sections 11 to 17 to disposal in pursuance of option or right of pre-emption));]
 - (j) a disposal consisting of the surrender of a tenancy in pursuance of any covenant, condition or agreement contained in it;
 - (k) a disposal to the Crown; and
 - [^{F12}(l) a disposal by a body corporate to a company which has been an associated company of that body for at least two years.]
- (3) In this Part “disposal” means a disposal whether by the creation or the transfer of an estate or interest and—
- (a) includes the surrender of a tenancy and the grant of an option or right of pre-emption, but
 - (b) excludes a disposal under the terms of a will or under the law relating to intestacy;
- and references in this Part to the transferee in connection with a disposal shall be construed accordingly.
- (4) In this section “appurtenant premises”, in relation to any flat, means any yard, garden, outhouse or appurtenance (not being a common part of the building containing the flat) which belongs to, or is usually enjoyed with, the flat.

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- (5) A person is a member of another's family for the purposes of this section if—
- (a) that person is the spouse of that other person, or the two of them live together as husband and wife, or
 - (b) that person is that other person's parent, grandparent, child, grandchild, brother, sister, uncle, aunt, nephew or niece.
- (6) For the purposes of subsection (5)(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.

Textual Amendments

- F6** S. 4(1A) inserted by Housing Act 1988 (c. 50, SIF 75:1), s. 119, **Sch. 13 para. 3(1)**
- F7** Word "or" inserted, sub-paragraph (ii) omitted and paragraph (aa) inserted by Housing Act 1988 (c. 50, SIF 75:1), s. 119, **Sch. 13 para. 3(2)**
- F8** Words in s. 4(2)(aa) repealed (1.10.1996) by 1996 c. 52, ss. 92(1), 227, Sch. 6 Pt. IV para. 1, **Sch. 19 Pt. III; S.I. 1996/2212, art. 2(2)** (with Sch.)
- F9** S. 4(2)(c) substituted (1.10.1996) by 1996 c. 52, s. 222, **Sch. 18 Pt. III para. 18; S.I. 1996/2402, art. 3**
- F10** S. 4(2)(da) inserted (1.11.1993) by 1993 c. 28, s. 187(1), Sch. 21 para. 26; S.I. 1993/2134, **arts. 2, 5**
- F11** S. 4(2)(i) substituted (1.10.1996) by 1996 c. 52, s. 89(2); S.I. 1996/2212, **art. 2(2)** (with Sch.)
- F12** S. 4(2)(l) substituted (1.10.1996 with effect as mentioned in s. 90(2) of the amending Act) by 1996 c. 52, s. 90(1); S.I. 1996/2212, **art. 2(2)** (with Sch.)

Modifications etc. (not altering text)

- C1** S. 4 excluded (coming into force in accordance with s. 3(2) of the excluding Act) by 1994 c. xiv, s. 9(1)
- S. 4 excluded (coming into force in accordance with s. 5(2) of the excluding Act) by 1996 c. ii, s. 11(1)
- S. 4 excluded (coming into force in accordance with s. 3 of the excluding Act) by 1998 c. v, s. 13(1)(a)
- S. 4 excluded (coming into force in accordance with s. 3 of the excluding Act) by 1999 c. iv, s. 13(1)(a)
- S. 4 excluded (coming into force in accordance with s. 3 of the excluding Act) by 2000 c. iii, s. 14(a) (with s. 16)
- S. 4 excluded (coming into force in accordance with s. 3 of the excluding Act) by 2001 c. i, s. 11(a) (with s. 13)
- S. 4 excluded (coming into force in accordance with s. 3 of the excluding Act) by 2001 c. v, s. 15(1)(a)
- S. 4 excluded by 2002 c. iii, s. 14(1)(a)
- S. 4 excluded by 2002 c. iv, s. 14(1)(a)

Marginal Citations

- M3** 1925 c. 18.

[^{F13}4A Application of provisions to contracts.

- (1) The provisions of this Part apply to a contract to create or transfer an estate or interest in land, whether conditional or unconditional and whether or not enforceable by specific

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performance, as they apply in relation to a disposal consisting of the creation or transfer of such an estate or interest.

As they so apply—

- (a) references to a disposal of any description shall be construed as references to a contract to make such a disposal;
- (b) references to making a disposal of any description shall be construed as references to entering into a contract to make such a disposal; and
- (c) references to the transferee under the disposal shall be construed as references to the other party to the contract and include a reference to any other person to whom an estate or interest is to be granted or transferred in pursuance of the contract.

- (2) The provisions of this Part apply to an assignment of rights under such a contract as is mentioned in subsection (1) as they apply in relation to a disposal consisting of the transfer of an estate or interest in land.

As they so apply—

- (a) references to a disposal of any description shall be construed as references to an assignment of rights under a contract to make such a disposal;
- (b) references to making a disposal of any description shall be construed as references to making an assignment of rights under a contract to make such a disposal;
- (c) references to the landlord shall be construed as references to the assignor; and
- (d) references to the transferee under the disposal shall be construed as references to the assignee of such rights.

- (3) The provisions of this Part apply to a contract to make such an assignment as is mentioned in subsection (2) as they apply (in accordance with subsection (1)) to a contract to create or transfer an estate or interest in land.

- (4) Nothing in this section affects the operation of the provisions of this Part relating to options or rights of pre-emption.]

Textual Amendments

F13 S. 4A inserted (1.10.1996) by 1996 c. 52, s. 89(1); S.I. 1996/2212, art. 2(2) (with Sch.)

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