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Housing Act 1988

1988 CHAPTER 50

PART I

RENTED ACCOMMODATION

CHAPTER I

ASSURED TENANCIES

Meaning of assured tenancy etc.

1 Assured tenancies.

- (1) A tenancy under which a dwelling-house is let as a separate dwelling is for the purposes of this Act an assured tenancy if and so long as—
 - (a) the tenant or, as the case may be, each of the joint tenants is an individual; and
 - (b) the tenant or, as the case may be, at least one of the joint tenants occupies the dwelling-house as his only or principal home; and
 - (c) the tenancy is not one which, by virtue of subsection (2) or subsection (6) below, cannot be an assured tenancy.
- (2) Subject to subsection (3) below, if and so long as a tenancy falls within any paragraph in Part I of Schedule 1 to this Act, it cannot be an assured tenancy; and in that Schedule—
 - (a) “tenancy” means a tenancy under which a dwelling-house is let as a separate dwelling;
 - (b) Part II has effect for determining the rateable value of a dwelling-house for the purposes of Part I; and
 - (c) Part III has effect for supplementing paragraph 10 in Part I.

[^{F1}(2A) The Secretary of State may by order replace any amount referred to in paragraphs 2 and 3A of Schedule 1 to this Act by such amount as is specified in the order; and such

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an order shall be made by statutory instrument which shall be subject to annulment in pursuance of a resolution of either House of Parliament.]

- (3) Except as provided in Chapter V below, at the commencement of this Act, a tenancy—
- (a) under which a dwelling-house was then let as a separate dwelling, and
 - (b) which immediately before that commencement was an assured tenancy for the purposes of sections 56 to 58 of the ^{M1}Housing Act 1980 (tenancies granted by approved bodies),

shall become an assured tenancy for the purposes of this Act.

- (4) In relation to an assured tenancy falling within subsection (3) above—
- (a) Part I of Schedule 1 to this Act shall have effect, subject to subsection (5) below, as if it consisted only of paragraphs 11 and 12; and
 - (b) sections 56 to 58 of the Housing Act 1980 (and Schedule 5 to that Act) shall not apply after the commencement of this Act.

- (5) In any case where—
- (a) immediately before the commencement of this Act the landlord under a tenancy is a fully mutual housing association, and
 - (b) at the commencement of this Act the tenancy becomes an assured tenancy by virtue of subsection (3) above,

then, so long as that association remains the landlord under that tenancy (and under any statutory periodic tenancy which arises on the coming to an end of that tenancy), paragraph 12 of Schedule 1 to this Act shall have effect in relation to that tenancy with the omission of sub-paragraph (1)(h).

^{F2}(6)

^{F2}(7)

Textual Amendments

F1 S. 1(2A) inserted by S.I. 1990/434, reg. 2, **Sch. para. 27**

F2 S. 1(6)(7) repealed (20.1.1997) by 1996 c. 52, s. 227, **Sch. 19 Pt. VIII**; S.I. 1996/2959, **art. 2** (subject to transitional provisions in **Sch. para. 1**)

Modifications etc. (not altering text)

C1 S. 1(2) excluded (6.4.2006 for E. and 16.6.2006 for W.) by **Housing Act 2004 (c. 34)**, ss. 132, 270, **Sch. 7 para. 18(6)(b)**; S.I. 2006/1060, **art. 2(1)(a)** (with Sch.); S.I. 2006/1535, **art. 2(a)** (with Sch.)

C2 S. 1(2) excluded (6.4.2006 for E. and 16.6.2006 for W.) by **Housing Act 2004 (c. 34)**, ss. 132, 270, **Sch. 7 para. 12(5)(b)** (with **Sch. 7 para. 12(9)**); S.I. 2006/1060, **art. 2(1)(a)** (with Sch.); S.I. 2006/1535, **art. 2(a)** (with Sch.)

C3 S. 1(2) excluded (6.4.2006 for E. and 16.6.2006 for W.) by **Housing Act 2004 (c. 34)**, ss. 132, 270, **Sch. 7 para. 4(5)(b)**; S.I. 2006/1060 {art. 2(1)(a)} (with Sch.); S.I. 2006/1535, **art. 2(a)** (with Sch.)

C4 S. 1(2) excluded (16.6.2006 for W. and 6.4.2006 for E.) by **Housing Act 2004 (c. 34)**, **ss. 124(8)**, 270 (with s. 124(9)(10)); S.I. 2006/1535, **art. 2(a)** (with Sch.); S.I. 2006/1060, **art. 2**

Marginal Citations

M1 1980 c. 51.

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2 Letting of a dwelling-house together with other land.

- (1) If, under a tenancy, a dwelling-house is let together with other land, then, for the purposes of this Part of this Act,—
 - (a) if and so long as the main purpose of the letting is the provision of a home for the tenant or, where there are joint tenants, at least one of them, the other land shall be treated as part of the dwelling-house; and
 - (b) if and so long as the main purpose of the letting is not as mentioned in paragraph (a) above, the tenancy shall be treated as not being one under which a dwelling-house is let as a separate dwelling.
- (2) Nothing in subsection (1) above affects any question whether a tenancy is precluded from being an assured tenancy by virtue of any provision of Schedule 1 to this Act.

3 Tenant sharing accommodation with persons other than landlord.

- (1) Where a tenant has the exclusive occupation of any accommodation (in this section referred to as “the separate accommodation”) and—
 - (a) the terms as between the tenant and his landlord on which he holds the separate accommodation include the use of other accommodation (in this section referred to as “the shared accommodation”) in common with another person or other persons, not being or including the landlord, and
 - (b) by reason only of the circumstances mentioned in paragraph (a) above, the separate accommodation would not, apart from this section, be a dwelling-house let on an assured tenancy,

the separate accommodation shall be deemed to be a dwelling-house let on an assured tenancy and the following provisions of this section shall have effect.

- (2) For the avoidance of doubt it is hereby declared that where, for the purpose of determining the rateable value of the separate accommodation, it is necessary to make an apportionment under Part II of Schedule 1 to this Act, regard is to be had to the circumstances mentioned in subsection (1)(a) above.
- (3) While the tenant is in possession of the separate accommodation, any term of the tenancy terminating or modifying, or providing for the termination or modification of, his right to the use of any of the shared accommodation which is living accommodation shall be of no effect.
- (4) Where the terms of the tenancy are such that, at any time during the tenancy, the persons in common with whom the tenant is entitled to the use of the shared accommodation could be varied or their number could be increased, nothing in subsection (3) above shall prevent those terms from having effect so far as they relate to any such variation or increase.
- (5) In this section “living accommodation” means accommodation of such a nature that the fact that it constitutes or is included in the shared accommodation is sufficient, apart from this section, to prevent the tenancy from constituting an assured tenancy of a dwelling-house.

4 Certain sublettings not to exclude any part of sub-lessor’s premises from assured tenancy.

- (1) Where the tenant of a dwelling-house has sub-let a part but not the whole of the dwelling-house, then, as against his landlord or any superior landlord, no part of the

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dwelling-house shall be treated as excluded from being a dwelling-house let on an assured tenancy by reason only that the terms on which any person claiming under the tenant holds any part of the dwelling-house include the use of accommodation in common with other persons.

- (2) Nothing in this section affects the rights against, and liabilities to, each other of the tenant and any person claiming under him, or of any two such persons.

Security of tenure

5 Security of tenure.

- (1) An assured tenancy cannot be brought to an end by the landlord except by obtaining an order of the court in accordance with the following provisions of this Chapter or Chapter II below or, in the case of a fixed term tenancy which contains power for the landlord to determine the tenancy in certain circumstances, by the exercise of that power and, accordingly, the service by the landlord of a notice to quit shall be of no effect in relation to a periodic assured tenancy.
- (2) If an assured tenancy which is a fixed term tenancy comes to an end otherwise than by virtue of—
- (a) an order of the court, or
 - (b) a surrender or other action on the part of the tenant,
- then, subject to section 7 and Chapter II below, the tenant shall be entitled to remain in possession of the dwelling-house let under that tenancy and, subject to subsection (4) below, his right to possession shall depend upon a periodic tenancy arising by virtue of this section.
- (3) The periodic tenancy referred to in subsection (2) above is one—
- (a) taking effect in possession immediately on the coming to an end of the fixed term tenancy;
 - (b) deemed to have been granted by the person who was the landlord under the fixed term tenancy immediately before it came to an end to the person who was then the tenant under that tenancy;
 - (c) under which the premises which are let are the same dwelling-house as was let under the fixed term tenancy;
 - (d) under which the periods of the tenancy are the same as those for which rent was last payable under the fixed term tenancy; and
 - (e) under which, subject to the following provisions of this Part of this Act, the other terms are the same as those of the fixed term tenancy immediately before it came to an end, except that any term which makes provision for determination by the landlord or the tenant shall not have effect while the tenancy remains an assured tenancy.
- (4) The periodic tenancy referred to in subsection (2) above shall not arise if, on the coming to an end of the fixed term tenancy, the tenant is entitled, by virtue of the grant of another tenancy, to possession of the same or substantially the same dwelling-house as was let to him under the fixed term tenancy.
- (5) If, on or before the date on which a tenancy is entered into or is deemed to have been granted as mentioned in subsection (3)(b) above, the person who is to be the tenant under that tenancy—

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- (a) enters into an obligation to do any act which (apart from this subsection) will cause the tenancy to come to an end at a time when it is an assured tenancy, or
- (b) executes, signs or gives any surrender, notice to quit or other document which (apart from this subsection) has the effect of bringing the tenancy to an end at a time when it is an assured tenancy,

the obligation referred to in paragraph (a) above shall not be enforceable or, as the case may be, the surrender, notice to quit or other document referred to in paragraph (b) above shall be of no effect.

- (6) If, by virtue of any provision of this Part of this Act, Part I of Schedule 1 to this Act has effect in relation to a fixed term tenancy as if it consisted only of paragraphs 11 and 12, that Part shall have the like effect in relation to any periodic tenancy which arises by virtue of this section on the coming to an end of the fixed term tenancy.
- (7) Any reference in this Part of this Act to a statutory periodic tenancy is a reference to a periodic tenancy arising by virtue of this section.

6 Fixing of terms of statutory periodic tenancy.

- (1) In this section, in relation to a statutory periodic tenancy,—
 - (a) “the former tenancy” means the fixed term tenancy on the coming to an end of which the statutory periodic tenancy arises; and
 - (b) “the implied terms” means the terms of the tenancy which have effect by virtue of section 5(3)(e) above, other than terms as to the amount of the rent;but nothing in the following provisions of this section applies to a statutory periodic tenancy at a time when, by virtue of paragraph 11 or paragraph 12 in Part 1 of Schedule 1 to this Act, it cannot be an assured tenancy.
- (2) Not later than the first anniversary of the day on which the former tenancy came to an end, the landlord may serve on the tenant, or the tenant may serve on the landlord, a notice in the prescribed form proposing terms of the statutory periodic tenancy different from the implied terms and, if the landlord or the tenant considers it appropriate, proposing an adjustment of the amount of the rent to take account of the proposed terms.
- (3) Where a notice has been served under subsection (2) above,—
 - (a) within the period of three months beginning on the date on which the notice was served on him, the landlord or the tenant, as the case may be, may, by an application in the prescribed form, refer the notice to a rent assessment committee under subsection (4) below; and
 - (b) if the notice is not so referred, then, with effect from such date, not falling within the period referred to in paragraph (a) above, as may be specified in the notice, the terms proposed in the notice shall become terms of the tenancy in substitution for any of the implied terms dealing with the same subject matter and the amount of the rent shall be varied in accordance with any adjustment so proposed.
- (4) Where a notice under subsection (2) above is referred to a rent assessment committee, the committee shall consider the terms proposed in the notice and shall determine whether those terms, or some other terms (dealing with the same subject matter as the proposed terms), are such as, in the committee’s opinion, might reasonably be expected to be found in an assured periodic tenancy of the dwelling-house concerned, being a tenancy—

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- (a) which begins on the coming to an end of the former tenancy; and
 - (b) which is granted by a willing landlord on terms which, except in so far as they relate to the subject matter of the proposed terms, are those of the statutory periodic tenancy at the time of the committee's consideration.
- (5) Whether or not a notice under subsection (2) above proposes an adjustment of the amount of the rent under the statutory periodic tenancy, where a rent assessment committee determine any terms under subsection (4) above, they shall, if they consider it appropriate, specify such an adjustment to take account of the terms so determined.
- (6) In making a determination under subsection (4) above, or specifying an adjustment of an amount of rent under subsection (5) above, there shall be disregarded any effect on the terms or the amount of the rent attributable to the granting of a tenancy to a sitting tenant.
- (7) Where a notice under subsection (2) above is referred to a rent assessment committee, then, unless the landlord and the tenant otherwise agree, with effect from such date as the committee may direct—
- (a) the terms determined by the committee shall become terms of the statutory periodic tenancy in substitution for any of the implied terms dealing with the same subject matter; and
 - (b) the amount of the rent under the statutory periodic tenancy shall be altered to accord with any adjustment specified by the committee;
- but for the purposes of paragraph (b) above the committee shall not direct a date earlier than the date specified, in accordance with subsection (3)(b) above, in the notice referred to them.
- (8) Nothing in this section requires a rent assessment committee to continue with a determination under subsection (4) above if the landlord and tenant give notice in writing that they no longer require such a determination or if the tenancy has come to an end.

VALID FROM 30/06/2004

[^{F3}6A Demotion because of anti-social behaviour

- (1) This section applies to an assured tenancy if the landlord is 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 assured 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 assured 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 assured 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) The court must not entertain proceedings for a demotion order unless—
 - (a) the landlord has served on the tenant a notice under subsection (6), or
 - (b) the court thinks it is just and equitable to dispense with the requirement of the notice.
- (6) The notice must—
 - (a) give particulars of the conduct in respect of which the order is sought;
 - (b) state that the proceedings will not begin before the date specified in the notice;
 - (c) state that the proceedings will not begin after the end of the period of twelve months beginning with the date of service of the notice.
- (7) The date specified for the purposes of subsection (6)(b) must not be before the end of the period of two weeks beginning with the date of service of the notice.
- (8) 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 assured 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.
- (9) Subsection (8)(b) does not apply if the assured tenancy was for a fixed term and in such a case the demoted tenancy is a weekly periodic tenancy.
- (10) If the landlord of the demoted tenancy serves on the tenant a statement of any other express terms of the assured tenancy which are to apply to the demoted tenancy such terms are also terms of the demoted tenancy.
- (11) For the purposes of this section a demoted tenancy is a tenancy to which section 20B of the Housing Act 1988 applies.]

Textual Amendments

- F3** S. 6A inserted (30.6.2004 for E. and 30.4.2005 for W.) by Anti-Social Behaviour Act 2003 (c. 38), s. 14(4); S.I. 2004/1502, art. 2(a)(iii) (with savings in Sch.); S.I. 2005/1225, art. 2(b)

7 Orders for possession.

- (1) The court shall not make an order for possession of a dwelling-house let on an assured tenancy except on one or more of the grounds set out in Schedule 2 to this Act; but nothing in this Part of this Act relates to proceedings for possession of such a dwelling-

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house which are brought by a mortgagee, within the meaning of the ^{M2}Law of Property Act 1925, who has lent money on the security of the assured tenancy.

- (2) The following provisions of this section have effect, subject to section 8 below, in relation to proceedings for the recovery of possession of a dwelling-house let on an assured tenancy.
- (3) If the court is satisfied that any of the grounds in Part I of Schedule 2 to this Act is established then, subject to [^{F4}subsections (5A) and (6)] below, the court shall make an order for possession.
- (4) If the court is satisfied that any of the grounds in Part II of Schedule 2 to this Act is established, then, subject to [^{F5}subsections (5A) and (6)] below, the court may make an order for possession if it considers it reasonable to do so.
- (5) Part III of Schedule 2 to this Act shall have effect for supplementing Ground 9 in that Schedule and Part IV of that Schedule shall have effect in relation to notices given as mentioned in Grounds 1 to 5 of that Schedule.
- [^{F6}(5A) The court shall not make an order for possession of a dwellinghouse let on an assured periodic tenancy arising under Schedule 10 to the Local Government and Housing Act 1989 on any of the following grounds, that is to say,—
 - (a) Grounds 1, 2 and 5 in Part I of Schedule 2 to this Act;
 - (b) Ground 16 in Part II of that Schedule; and
 - (c) if the assured periodic tenancy arose on the termination of a former 1954 Act tenancy, within the meaning of the said Schedule 10, Ground 6 in Part I of Schedule 2 to this Act.]
- (6) The court shall not make an order for possession of a dwelling-house to take effect at a time when it is let on an assured fixed term tenancy unless—
 - (a) the ground for possession is Ground 2 or Ground 8 in Part I of Schedule 2 to this Act or any of the grounds in Part II of that Schedule, other than Ground 9 or Ground 16; and
 - (b) the terms of the tenancy make provision for it to be brought to an end on the ground in question (whether that provision takes the form of a provision for re-entry, for forfeiture, for determination by notice or otherwise).
- (7) Subject to the preceding provisions of this section, the court may make an order for possession of a dwelling-house on grounds relating to a fixed term tenancy which has come to an end; and where an order is made in such circumstances, any statutory periodic tenancy which has arisen on the ending of the fixed term tenancy shall end (without any notice and regardless of the period) on the day on which the order takes effect.

Textual Amendments

- F4** Words substituted by [Local Government and Housing Act 1989 \(c. 42, SIF 75:1\)](#), s. 194, [Sch. 11 para. 101](#)
- F5** Words substituted by [Local Government and Housing Act 1989 \(c. 42, SIF 75:1\)](#), s. 194, [Sch. 11 para. 101\(2\)](#)
- F6** S. 7(5A) inserted by [Local Government and Housing Act 1989 \(c. 42, SIF 75:1\)](#), s. 194, [Sch. 11 para. 101\(3\)](#)

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Marginal Citations

M2 1925 c. 20.

8 Notice of proceedings for possession.

- (1) The court shall not entertain proceedings for possession of a dwelling-house let on an assured tenancy unless—
 - (a) the landlord or, in the case of joint landlords, at least one of them has served on the tenant a notice in accordance with this section and the proceedings are begun within the time limits stated in the notice in accordance with [F⁷subsections (3) to (4B)] below; or
 - (b) the court considers it just and equitable to dispense with the requirement of such a notice.
 - (2) The court shall not make an order for possession on any of the grounds in Schedule 2 to this Act unless that ground and particulars of it are specified in the notice under this section; but the grounds specified in such a notice may be altered or added to with the leave of the court.
 - (3) A notice under this section is one in the prescribed form informing the tenant that—
 - (a) the landlord intends to begin proceedings for possession of the dwelling-house on one or more of the grounds specified in the notice; and
 - (b) those proceedings will not begin earlier than a date specified in the notice [F⁸in accordance with subsections (4) to (4B) below]; and
 - (c) those proceedings will not begin later than twelve months from the date of service of the notice.
- [F⁹(4) If a notice under this section specifies in accordance with subsection (3)(a) above Ground 14 in Schedule 2 to this Act (whether with or without other grounds), the date specified in the notice as mentioned in subsection (3)(b) above shall not be earlier than the date of the service of the notice.
- (4A) If a notice under this section specifies in accordance with subsection (3)(a) above, any of Grounds 1, 2, 5 to 7, 9 and 16 in Schedule 2 to this Act (whether without other grounds or with any ground other than Ground 14), the date specified in the notice as mentioned in subsection (3)(b) above shall not be earlier than—
 - (a) two months from the date of service of the notice; and
 - (b) if the tenancy is a periodic tenancy, the earliest date on which, apart from section 5(1) above, the tenancy could be brought to an end by a notice to quit given by the landlord on the same date as the date of service of the notice under this section.
 - (4B) In any other case, the date specified in the notice as mentioned in subsection (3)(b) above shall not be earlier than the expiry of the period of two weeks from the date of the service of the notice.]
 - (5) The court may not exercise the power conferred by subsection (1)(b) above if the landlord seeks to recover possession on Ground 8 in Schedule 2 to this Act.
 - (6) Where a notice under this section—
 - (a) is served at a time when the dwelling-house is let on a fixed term tenancy, or

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- (b) is served after a fixed term tenancy has come to an end but relates (in whole or in part) to events occurring during that tenancy,
the notice shall have effect notwithstanding that the tenant becomes or has become tenant under a statutory periodic tenancy arising on the coming to an end of the fixed term tenancy.

Textual Amendments

- F7** Words in s. 8(1)(a) substituted (28.2.1997) by 1996 c. 52, s. 151(2); S.I. 1997/225, art. 1 (with Sch.)
F8 Words in s. 8(3)(b) substituted (28.2.1997) by 1996 c. 52, s. 151(3); S.I. 1997/225, art. 1 (with Sch.)
F9 S. 8(4)-(4B) substituted for s. 8(4) (28.2.1997) by 1996 c. 52, s. 151(4); S.I. 1997/225, art. 2 (with Sch.)

[^{F10}8A Additional notice requirements: ground of domestic violence.

- (1) Where the ground specified in a notice under section 8 (whether with or without other grounds) is Ground 14A in Schedule 2 to this Act and 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 possession of the dwelling-house unless—
- (a) the landlord or, in the case of joint landlords, at least one of them has served on the partner who has left a copy of the notice or has taken all reasonable steps to serve a copy of the notice on that partner, or
 - (b) the court considers it just and equitable to dispense with such requirements as to service.
- (2) Where Ground 14A in Schedule 2 to this Act is added to a notice under section 8 with the leave of the court after proceedings for possession are begun and 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—
- (a) the landlord or, in the case of joint landlords, at least one of them has served a notice under subsection (3) below on the partner who has left or has taken all reasonable steps to serve such a notice on that partner, or
 - (b) the court considers it just and equitable to dispense with the requirement of such a notice.
- (3) 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

- F10** S. 8A inserted (28.2.1997) by 1996 c. 52, s. 150; S.I. 1997/225, art. 2 (with Sch.)

9 Extended discretion of court in possession claims.

- (1) Subject to subsection (6) below, the court may adjourn for such period or periods as it thinks fit proceedings for possession of a dwelling-house let on an assured tenancy.

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- (2) On the making of an order for possession of a dwelling-house let on an assured tenancy or at any time before the execution of such an order, the court, subject to subsection (6) below, may—
 - (a) stay or suspend execution of the order, or
 - (b) postpone the date of possession,for such period or periods as the court thinks just.
 - (3) On any such adjournment as is referred to in subsection (1) above or on any such stay, suspension or postponement as is referred to in subsection (2) above, the court, unless it considers that to do so would cause exceptional hardship to the tenant or would otherwise be unreasonable, shall impose conditions with regard to 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) and may impose such other conditions as it thinks fit.
 - (4) If any such conditions as are referred to in subsection (3) above are complied with, the court may, if it thinks fit, discharge or rescind any such order as is referred to in subsection (2) above.
 - (5) In any case where—
 - (a) at a time when proceedings are brought for possession of a dwelling-house let on an assured tenancy, the tenant's spouse or former spouse, having [^{F11}matrimonial home rights under Part IV of the Family Law Act 1996], is in occupation of the dwelling-house, and
 - (b) the assured tenancy is terminated as a result of those proceedings,the spouse or former spouse, so long as he or she remains in occupation, shall have the same rights in relation to, or in connection with, any such adjournment as is referred to in subsection (1) above or any such stay, suspension or postponement as is referred to in subsection (2) above, as he or she would have if [^{F12}those matrimonial house rights] were not affected by the termination of the tenancy.
- [^{F13}(5A) In any case where—
- (a) at a time when proceedings are brought for possession of a dwelling-house let on an assured tenancy—
 - (i) an order is in force under section 35 of the Family Law Act 1996 conferring rights on the former spouse of the tenant, or
 - (ii) an order is in force under section 36 of that Act conferring rights on a cohabitant or former cohabitant (within the meaning of that Act) of the tenant,
 - (b) that cohabitant, former cohabitant or former spouse is then in occupation of the dwelling-house, and
 - (c) the assured tenancy is terminated as a result of those proceedings,
- the cohabitant, former cohabitant or former spouse shall have the same rights in relation to, or in connection with, any such adjournment as is referred to in subsection (1) above or any such stay, suspension or postponement as is referred to in subsection (2) above as he or she would have if the rights conferred by the order referred to in paragraph (a) above were not affected by the termination of the tenancy.]
- (6) This section does not apply if the court is satisfied that the landlord is entitled to possession of the dwelling-house—
 - (a) on any of the grounds in Part I of Schedule 2 to this Act; or

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(b) by virtue of subsection (1) or subsection (4) of section 21 below.

Textual Amendments

- F11** Words in s. 9(5)(a) substituted (1.10.1997) by 1996 c. 27, s. 66(1), **Sch. 8 Pt. III para. 59(2)(a)** (with Sch. 9 paras. 8-10); S.I. 1997/1892, **art. 3**
- F12** Words in s. 9(5) substituted (1.10.1997) by 1996 c. 27, s. 66(1), **Sch. 8 Pt. III para. 59(2)(a)** (with Sch. 9 paras. 8-10); S.I. 1997/1892, **art. 3**
- F13** S. 9(5A) inserted (1.10.1997) by 1996 c. 27, s. 66(1), **Sch. 8 Pt. III para. 59(3)** (with Sch. 9 paras. 8-10); S.I. 1997/1892, **art. 3**

VALID FROM 30/06/2004

[^{F14}9A Proceedings for possession: anti-social behaviour

- (1) This section applies if the court is considering under section 7(4) whether it is reasonable to make an order for possession on ground 14 set out in Part 2 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

- F14** S. 9A inserted (30.6.2004 for E. and 30.9.2004 for W.) by Anti-Social Behaviour Act 2003 (c. 38), **s. 16(2)**; S.I. 2004/1502, **art. 2(a)(v)** (with Sch.) and S.I. 2004/2557, **art. 2(a)(iii)** (with Sch.)

10 Special provisions applicable to shared accommodation.

- (1) This section applies in a case falling within subsection (1) of section 3 above and expressions used in this section have the same meaning as in that section.
- (2) Without prejudice to the enforcement of any order made under subsection (3) below, while the tenant is in possession of the separate accommodation, no order shall be made for possession of any of the shared accommodation, whether on the application of the immediate landlord of the tenant or on the application of any person under whom that landlord derives title, unless a like order has been made, or is made at the same time, in respect of the separate accommodation; and the provisions of section 6 above shall have effect accordingly.
- (3) On the application of the landlord, the court may make such order as it thinks just either—
 - (a) terminating the right of the tenant to use the whole or any part of the shared accommodation other than living accommodation; or

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- (b) modifying his right to use the whole or any part of the shared accommodation, whether by varying the persons or increasing the number of persons entitled to the use of that accommodation or otherwise.
- (4) No order shall be made under subsection (3) above so as to effect any termination or modification of the rights of the tenant which, apart from section 3(3) above, could not be effected by or under the terms of the tenancy.

11 Payment of removal expenses in certain cases.

- (1) Where a court makes an order for possession of a dwelling-house let on an assured tenancy on Ground 6 or Ground 9 in Schedule 2 to this Act (but not on any other ground), the landlord shall pay to the tenant a sum equal to the reasonable expenses likely to be incurred by the tenant in removing from the dwelling-house.
- (2) Any question as to the amount of the sum referred to in subsection (1) above shall be determined by agreement between the landlord and the tenant or, in default of agreement, by the court.
- (3) Any sum payable to a tenant by virtue of this section shall be recoverable as a civil debt due from the landlord.

12 Compensation for misrepresentation or concealment.

Where a landlord obtains an order for possession of a dwelling-house let on an assured tenancy on one or more of the grounds in Schedule 2 to this Act and it is subsequently made to appear to the court that the order was obtained by misrepresentation or concealment of material facts, the court may order the landlord to pay to the former tenant such sum as appears sufficient as compensation for damage or loss sustained by that tenant as a result of the order.

Rent and other terms

13 Increases of rent under assured periodic tenancies.

- (1) This section applies to—
- (a) a statutory periodic tenancy other than one which, by virtue of paragraph 11 or paragraph 12 in Part I of Schedule 1 to this Act, cannot for the time being be an assured tenancy; and
 - (b) any other periodic tenancy which is an assured tenancy, other than one in relation to which there is a provision, for the time being binding on the tenant, under which the rent for a particular period of the tenancy will or may be greater than the rent for an earlier period.
- (2) For the purpose of securing an increase in the rent under a tenancy to which this section applies, the landlord may serve on the tenant a notice in the prescribed form proposing a new rent to take effect at the beginning of a new period of the tenancy specified in the notice, being a period beginning not earlier than—
- (a) the minimum period after the date of the service of the notice; and
 - (b) except in the case of a statutory periodic tenancy, the first anniversary of the date on which the first period of the tenancy began; and

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- (c) if the rent under the tenancy has previously been increased by virtue of a notice under this subsection or a determination under section 14 below, the first anniversary of the date on which the increased rent took effect.
- (3) The minimum period referred to in subsection (2) above is—
- (a) in the case of a yearly tenancy, six months;
 - (b) in the case of a tenancy where the period is less than a month, one month; and
 - (c) in any other case, a period equal to the period of the tenancy.
- (4) Where a notice is served under subsection (2) above, a new rent specified in the notice shall take effect as mentioned in the notice unless, before the beginning of the new period specified in the notice,—
- (a) the tenant by an application in the prescribed form refers the notice to a rent assessment committee; or
 - (b) the landlord and the tenant agree on a variation of the rent which is different from that proposed in the notice or agree that the rent should not be varied.
- (5) Nothing in this section (or in section 14 below) affects the right of the landlord and the tenant under an assured tenancy to vary by agreement any term of the tenancy (including a term relating to rent).

14 Determination of rent by rent assessment committee.

- (1) Where, under subsection (4)(a) of section 13 above, a tenant refers to a rent assessment committee a notice under subsection (2) of that section, the committee shall determine the rent at which, subject to subsections (2) and (4) below, the committee consider that the dwelling-house concerned might reasonably be expected to be let in the open market by a willing landlord under an assured tenancy—
- (a) which is a periodic tenancy having the same periods as those of the tenancy to which the notice relates;
 - (b) which begins at the beginning of the new period specified in the notice;
 - (c) the terms of which (other than relating to the amount of the rent) are the same as those of the tenancy to which the notice relates; and
 - (d) in respect of which the same notices, if any, have been given under any of Grounds 1 to 5 of Schedule 2 to this Act, as have been given (or have effect as if given) in relation to the tenancy to which the notice relates.
- (2) In making a determination under this section, there shall be disregarded—
- (a) any effect on the rent attributable to the granting of a tenancy to a sitting tenant;
 - (b) any increase in the value of the dwelling-house attributable to a relevant improvement carried out by a person who at the time it was carried out was the tenant, if the improvement—
 - (i) was carried out otherwise than in pursuance of an obligation to his immediate landlord, or
 - (ii) was carried out pursuant to an obligation to his immediate landlord being an obligation which did not relate to the specific improvement concerned but arose by reference to consent given to the carrying out of that improvement; and
 - (c) any reduction in the value of the dwelling-house attributable to a failure by the tenant to comply with any terms of the tenancy.

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(3) For the purposes of subsection (2)(b) above, in relation to a notice which is referred by a tenant as mentioned in subsection (1) above, an improvement is a relevant improvement if either it was carried out during the tenancy to which the notice relates or the following conditions are satisfied, namely—

- (a) that it was carried out not more than twenty-one years before the date of service of the notice; and
- (b) that, at all times during the period beginning when the improvement was carried out and ending on the date of service of the notice, the dwelling-house has been let under an assured tenancy; and
- (c) that, on the coming to an end of an assured tenancy at any time during that period, the tenant (or, in the case of joint tenants, at least one of them) did not quit.

[^{F15}(3A) In making a determination under this section in any case where under Part I of the Local Government Finance Act 1992 the landlord or a superior landlord is liable to pay council tax in respect of a hereditament (“the relevant hereditament”) of which the dwelling-house forms part, the rent assessment committee shall have regard to the amount of council tax which, as at the date on which the notice under section 13(2) above was served, was set by the billing authority—

- (a) for the financial year in which that notice was served, and
- (b) for the category of dwellings within which the relevant hereditament fell on that date,

but any discount or other reduction affecting the amount of council tax payable shall be disregarded.

(3B) In subsection (3A) above—

- (a) “hereditament” means a dwelling within the meaning of Part I of the Local Government Finance Act 1992,
- (b) “billing authority” has the same meaning as in that Part of that Act, and
- (c) “category of dwellings” has the same meaning as in section 30(1) and (2) of that Act.]

(4) In this section “rent” does not include any service charge, within the meaning of section 18 of the ^{M3}Landlord and Tenant Act 1985, but, subject to that, includes any sums payable by the tenant to the landlord on account of the use of furniture [^{F16}, in respect of council tax] or for any of the matters referred to in subsection (1)(a) of that section, whether or not those sums are separate from the sums payable for the occupation of the dwelling-house concerned or are payable under separate agreements.

(5) Where any rates in respect of the dwelling-house concerned are borne by the landlord or a superior landlord, the rent assessment committee shall make their determination under this section as if the rates were not so borne.

(6) In any case where—

- (a) a rent assessment committee have before them at the same time the reference of a notice under section 6(2) above relating to a tenancy (in this subsection referred to as “the section 6 reference”) and the reference of a notice under section 13(2) above relating to the same tenancy (in this subsection referred to as “the section 13 reference”), and
- (b) the date specified in the notice under section 6(2) above is not later than the first day of the new period specified in the notice under section 13(2) above, and

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- (c) the committee propose to hear the two references together, the committee shall make a determination in relation to the section 6 reference before making their determination in relation to the section 13 reference and, accordingly, in such a case the reference in subsection(1)(c) above to the terms of the tenancy to which the notice relates shall be construed as a reference to those terms as varied by virtue of the determination made in relation to the section 6 reference.
- (7) Where a notice under section 13(2) above has been referred to a rent assessment committee, then, unless the landlord and the tenant otherwise agree, the rent determined by the committee (subject, in a case where subsection (5) above applies, to the addition of the appropriate amount in respect of rates) shall be the rent under the tenancy with effect from the beginning of the new period specified in the notice or, if it appears to the rent assessment committee that that would cause undue hardship to the tenant, with effect from such later date (not being later than the date the rent is determined) as the committee may direct.
- (8) Nothing in this section requires a rent assessment committee to continue with their determination of a rent for a dwelling-house if the landlord and tenant give notice in writing that they no longer require such a determination or if the tenancy has come to an end.
- [^{F17}(9) This section shall apply in relation to an assured shorthold tenancy as if in subsection (1) the reference to an assured tenancy were a reference to an assured shorthold tenancy.]

Textual Amendments

- F15** S. 14(3A)(3B) inserted (1.4.1993) by S.I. 1993/651, art. 2(1), **Sch. 1 para. 17(2)**
F16 Words in s. 14(4) inserted (1.4.1993) by S.I. 1993/651, art. 2(1), **Sch. 1 para. 17(3)**
F17 S. 14(9) inserted (28.2.1997) by 1996 c. 52, s. 104, **Sch. 8 para. 2(2)**; S.I. 1997/225, **art. 2** (with Sch.)

Modifications etc. (not altering text)

- C5** S. 14(2)(4)(5) applied with modifications by Local Government and Housing Act 1989 (c. 42, SIF 75:1), s. 186, Sch. 10 paras. 6(4)(5), 7, 11(6), 12(2)(3), 21, **22**

Marginal Citations

- M3** 1985 c. 70.

[^{F18}14A Interim increase before 1st April 1994 of rent under assured periodic tenancies in certain cases where landlord liable for council tax

- (1) In any case where—
- (a) under Part I of the Local Government Finance Act 1992 the landlord of a dwelling-house let under an assured tenancy to which section 13 above applies or a superior landlord is liable to pay council tax in respect of a dwelling (within the meaning of that Part of that Act) which includes that dwelling-house,
 - (b) under the terms of the tenancy (or an agreement collateral to the tenancy) the tenant is liable to make payments to the landlord in respect of council tax,
 - (c) the case falls within subsection (2) or subsection (3) below, and
 - (d) no previous notice under this subsection has been served in relation to the dwelling-house,

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the landlord may serve on the tenant a notice in the prescribed form proposing an increased rent to take account of the tenant's liability to make payments to the landlord in respect of council tax, such increased rent to take effect at the beginning of a new period of the tenancy specified in the notice being a period beginning not earlier than one month after the date on which the notice was served.

- (2) The case falls within this subsection if—
 - (a) the rent under the tenancy has previously been increased by virtue of a notice under section 13(2) above or a determination under section 14 above, and
 - (b) the first anniversary of the date on which the increased rent took effect has not yet occurred.
- (3) The case falls within this subsection if a notice has been served under section 13(2) above before 1st April 1993 but no increased rent has taken effect before that date.
- (4) No notice may be served under subsection (1) above after 31st March 1994.
- (5) Where a notice is served under subsection (1) above, the new rent specified in the notice shall take effect as mentioned in the notice unless, before the beginning of the new period specified in the notice—
 - (a) the tenant by an application in the prescribed form refers the notice to a rent assessment committee, or
 - (b) the landlord and the tenant agree on a variation of the rent which is different from that proposed in the notice or agree that the rent should not be varied.
- (6) Nothing in this section (or in section 14B below) affects the right of the landlord and the tenant under an assured tenancy to vary by agreement any term of the tenancy (including a term relating to rent).]

Textual Amendments

F18 Ss. 14A, 14B inserted (1.4.1993) by S.I. 1993/651, art. 2(2), Sch. 2 para. 8

^{F19}14B Interim determination of rent by rent assessment committee

- (1) Where, under subsection (5)(a) of section 14A above, a tenant refers to a rent assessment committee a notice under subsection (1) of that section, the committee shall determine the amount by which, having regard to the provisions of section 14(3A) above, the existing rent might reasonably be increased to take account of the tenant's liability to make payments to the landlord in respect of council tax.
- (2) Where a notice under section 14A(1) above has been referred to a rent assessment committee, then, unless the landlord and the tenant otherwise agree, the existing rent shall be increased by the amount determined by the committee with effect from the beginning of the new period specified in the notice or, if it appears to the committee that that would cause undue hardship to the tenant, with effect from such later date (not being later than the date the increase is determined) as the committee may direct.
- (3) In any case where—
 - (a) a rent assessment committee have before them at the same time the reference of a notice under section 13(2) above relating to a tenancy (in this subsection referred to as “the section 13 reference”) and the reference of a notice under

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section 14A(1) above relating to the same tenancy (in this subsection referred to as “the section 14A reference”); and

(b) the committee propose to hear the two references together,

the committee shall make a determination in relation to the section 13 reference before making their determination in relation to the section 14A reference, and if in such a case the date specified in the notice under section 13(2) above is later than the date specified in the notice under section 14A(1) above, the rent determined under the section 14A reference shall not take effect until the date specified in the notice under section 13(2).

(4) In this section “rent” has the same meaning as in section 14 above; and section 14(4) above applies to a determination under this section as it applies to a determination under that section.

Textual Amendments

F19 Ss. 14A, 14B inserted (1.4.1993) by S.I. 1993/651, art. 2(2), Sch. 2 para. 8

15 Limited prohibition on assignment etc. without consent.

(1) Subject to subsection (3) below, it shall be an implied term of every assured tenancy which is a periodic tenancy that, except with the consent of the landlord, the tenant shall not—

- (a) assign the tenancy (in whole or in part); or
- (b) sub-let or part with possession of the whole or any part of the dwelling-house let on the tenancy.

(2) Section 19 of the ^{M4}Landlord and Tenant Act 1927 (consents to assign not to be unreasonably withheld etc.) shall not apply to a term which is implied into an assured tenancy by subsection (1) above.

(3) In the case of a periodic tenancy which is not a statutory periodic tenancy [^{F20}or an assured periodic tenancy arising under Schedule 10 to the Local Government and Housing Act 1989] subsection (1) above does not apply if—

- (a) there is a provision (whether contained in the tenancy or not) under which the tenant is prohibited (whether absolutely or conditionally) from assigning or sub-letting or parting with possession or is permitted (whether absolutely or conditionally) to assign, sub-let or part with possession; or
- (b) a premium is required to be paid on the grant or renewal of the tenancy.

(4) In subsection (3)(b) above “premium” includes—

- (a) any fine or other like sum;
- (b) any other pecuniary consideration in addition to rent; and
- (c) any sum paid by way of deposit, other than one which does not exceed one-sixth of the annual rent payable under the tenancy immediately after the grant or renewal in question.

Textual Amendments

F20 Words inserted by Local Government and Housing Act 1989 (c. 42, SIF 75:1), s. 194, Sch. 11 para.

102

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Marginal Citations

M4 1927 c. 36.

16 Access for repairs.

It shall be an implied term of every assured tenancy that the tenant shall afford to the landlord access to the dwelling-house let on the tenancy and all reasonable facilities for executing therein any repairs which the landlord is entitled to execute.

Miscellaneous

17 Succession to assured periodic tenancy by spouse.

- (1) In any case where—
 - (a) the sole tenant under an assured periodic tenancy dies, and
 - (b) immediately before the death, the tenant's spouse was occupying the dwelling-house as his or her only or principal home, and
 - (c) the tenant was not himself a successor, as defined in subsection (2) or subsection (3) below,then, on the death, the tenancy vests by virtue of this section in the spouse (and, accordingly, does not devolve under the tenant's will or intestacy).
- (2) For the purposes of this section, a tenant is a successor in relation to a tenancy if—
 - (a) the tenancy became vested in him either by virtue of this section or under the will or intestacy of a previous tenant; or
 - (b) at some time before the tenant's death the tenancy was a joint tenancy held by himself and one or more other persons and, prior to his death, he became the sole tenant by survivorship; or
 - (c) he became entitled to the tenancy as mentioned in section 39(5) below.
- (3) For the purposes of this section, a tenant is also a successor in relation to a tenancy (in this subsection referred to as "the new tenancy") which was granted to him (alone or jointly with others) if—
 - (a) at some time before the grant of the new tenancy, he was, by virtue of subsection (2) above, a successor in relation to an earlier tenancy of the same or substantially the same dwelling-house as is let under the new tenancy; and
 - (b) at all times since he became such a successor he has been a tenant (alone or jointly with others) of the dwelling-house which is let under the new tenancy or of a dwelling-house which is substantially the same as that dwelling-house.
- (4) For the purposes of this section, a person who was living with the tenant as his or her wife or husband shall be treated as the tenant's spouse.
- (5) If, on the death of the tenant, there is, by virtue of subsection (4) above, more than one person who fulfils the condition in subsection (1)(b) above, such one of them as may be decided by agreement or, in default of agreement, by the county court shall be treated as the tenant's spouse for the purposes of this section.

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Modifications etc. (not altering text)

C6 S. 17 extended (1.10.1997) by 1996 c. 27, ss. 53, 63(4), **Sch. 7 Pt. II para. 7(4)(6)**; S.I. 1997/1892, **art. 3**

18 Provisions as to reversions on assured tenancies.

- (1) If at any time—
- (a) a dwelling-house is for the time being lawfully let on an assured tenancy, and
 - (b) the landlord under the assured tenancy is himself a tenant under a superior tenancy; and
 - (c) the superior tenancy comes to an end,
- then, subject to subsection (2) below, the assured tenancy shall continue in existence as a tenancy held of the person whose interest would, apart from the continuance of the assured tenancy, entitle him to actual possession of the dwelling-house at that time.
- (2) Subsection (1) above does not apply to an assured tenancy if the interest which, by virtue of that subsection, would become that of the landlord, is such that, by virtue of Schedule 1 to this Act, the tenancy could not be an assured tenancy.
- (3) Where, by virtue of any provision of this Part of this Act, an assured tenancy which is a periodic tenancy (including a statutory periodic tenancy) continues beyond the beginning of a reversionary tenancy which was granted (whether before, on or after the commencement of this Act) so as to begin on or after—
- (a) the date on which the previous contractual assured tenancy came to an end, or
 - (b) a date on which, apart from any provision of this Part, the periodic tenancy could have been brought to an end by the landlord by notice to quit,
- the reversionary tenancy shall have effect as if it had been granted subject to the periodic tenancy.
- (4) The reference in subsection (3) above to the previous contractual assured tenancy applies only where the periodic tenancy referred to in that subsection is a statutory periodic tenancy and is a reference to the fixed-term tenancy which immediately preceded the statutory periodic tenancy.

Modifications etc. (not altering text)

C7 S. 18(1) restricted (1.11.1993) by 1993 c. 28, s. 61, **Sch. 14 para. 3(2)(c)**; S.I. 1993/2134, **arts. 2,5**

19 Restriction on levy of distress for rent.

- (1) Subject to subsection (2) below, no distress for the rent of any dwelling-house let on an assured tenancy shall be levied except with the leave of the county court; and, with respect to any application for such leave, the court shall have the same powers with respect to adjournment, stay, suspension, postponement and otherwise as are conferred by section 9 above in relation to proceedings for possession of such a dwelling-house.
- (2) Nothing in subsection (1) above applies to distress levied under section 102 of the ^{M5}County Courts Act 1984.

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Marginal Citations

M5 1984 c. 28.

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