

Status: Point in time view as at 16/06/2006.

Changes to legislation: Housing Act 1988, Part 1 is up to date with all changes known to be in force on or before 11 April 2024. There are changes that may be brought into force at a future date. Changes that have been made appear in the content and are referenced with annotations. (See end of Document for details)

SCHEDULES

SCHEDULE 2

GROUND FOR POSSESSION OF DWELLING-HOUSES LET ON ASSURED TENANCIES

PART I

GROUND ON WHICH COURT MUST ORDER POSSESSION

Ground 1

Not later than the beginning of the tenancy the landlord gave notice in writing to the tenant that possession might be recovered on this ground or the court is of the opinion that it is just and equitable to dispense with the requirement of notice and (in either case)—

- (a) at some time before the beginning of the tenancy, the landlord who is seeking possession or, in the case of joint landlords seeking possession, at least one of them occupied the dwelling-house as his only or principal home; or
- (b) the landlord who is seeking possession or, in the case of joint landlords seeking possession, at least one of them requires the dwelling-house as ^{F1}his, his spouse's or his civil partner's] only or principal home and neither the landlord (or, in the case of joint landlords, any one of them) nor any other person who, as landlord, derived title under the landlord who gave the notice mentioned above acquired the reversion on the tenancy for money or money's worth.

Textual Amendments

- F1** Words in Sch. 2 Pt. 1 Ground 1 substituted (5.12.2005) by [Civil Partnership Act 2004 \(c. 33\), s. 81, 263, Sch. 8 para. 43\(2\)](#); S.I. 2005/ 3175, {art. 2(1)}, Sch. 1

Textual Amendments

- F1** Words in Sch. 2 Pt. 1 Ground 1 substituted (5.12.2005) by [Civil Partnership Act 2004 \(c. 33\), s. 81, 263, Sch. 8 para. 43\(2\)](#); S.I. 2005/ 3175, {art. 2(1)}, Sch. 1

Ground 2

The dwelling-house is subject to a mortgage granted before the beginning of the tenancy and—

- (a) the mortgagee is entitled to exercise a power of sale conferred on him by the mortgage or by section 101 of the ^{M1}Law of Property Act 1925; and
- (b) the mortgagee requires possession of the dwelling-house for the purpose of disposing of it with vacant possession in exercise of that power; and
- (c) either notice was given as mentioned in Ground 1 above or the court is satisfied that it is just and equitable to dispense with the requirement of notice;

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and for the purposes of this ground “mortgage” includes a charge and “mortgagee” shall be construed accordingly.

Marginal Citations

M1 1925 c. 20.

Marginal Citations

M1 1925 c. 20.

Ground 3

The tenancy is a fixed term tenancy for a term not exceeding eight months and—

- (a) not later than the beginning of the tenancy the landlord gave notice in writing to the tenant that possession might be recovered on this ground; and
- (b) at some time within the period of twelve months ending with the beginning of the tenancy, the dwelling-house was occupied under a right to occupy it for a holiday.

Ground 4

The tenancy is a fixed term tenancy for a term not exceeding twelve months and—

- (a) not later than the beginning of the tenancy the landlord gave notice in writing to the tenant that possession might be recovered on this ground; and
- (b) at some time within the period of twelve months ending with the beginning of the tenancy, the dwelling-house was let on a tenancy falling within paragraph 8 of Schedule 1 to this Act.

Ground 5

The dwelling-house is held for the purpose of being available for occupation by a minister of religion as a residence from which to perform the duties of his office and—

- (a) not later than the beginning of the tenancy the landlord gave notice in writing to the tenant that possession might be recovered on this ground; and
- (b) the court is satisfied that the dwelling-house is required for occupation by a minister of religion as such a residence.

Ground 6

The landlord who is seeking possession or, if that landlord is a [F2registered social landlord] or charitable housing trust, a superior landlord intends to demolish or reconstruct the whole or a substantial part of the dwelling-house or to carry out substantial works on the dwelling-house or any part thereof or any building of which it forms part and the following conditions are fulfilled—

- (a) the intended work cannot reasonably be carried out without the tenant giving up possession of the dwelling-house because—
 - (i) the tenant is not willing to agree to such a variation of the terms of the tenancy as would give such access and other facilities as would permit the intended work to be carried out, or

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- (ii) the nature of the intended work is such that no such variation is practicable, or
 - (iii) the tenant is not willing to accept an assured tenancy of such part only of the dwelling-house (in this sub-paragraph referred to as “the reduced part”) as would leave in the possession of his landlord so much of the dwelling-house as would be reasonable to enable the intended work to be carried out and, where appropriate, as would give such access and other facilities over the reduced part as would permit the intended work to be carried out, or
 - (iv) the nature of the intended work is such that such a tenancy is not practicable; and
- (b) either the landlord seeking possession acquired his interest in the dwelling-house before the grant of the tenancy or that interest was in existence at the time of that grant and neither that landlord (or, in the case of joint landlords, any of them) nor any other person who, alone or jointly with others, has acquired that interest since that time acquired it for money or money’s worth; and
 - (c) the assured tenancy on which the dwelling-house is let did not come into being by virtue of any provision of Schedule 1 to the ^{M2}Rent Act 1977, as amended by Part I of Schedule 4 to this Act or, as the case may be, section 4 of the ^{M3}Rent (Agriculture) Act 1976, as amended by Part II of that Schedule.

Textual Amendments

F2 Words in Sch. 2 Pt. I Ground 6 substituted (1.10.1996) by [S.I. 1996/2325, art. 5\(1\)](#), [Sch. 2 para. 18\(13\)\(a\)](#)

Modifications etc. (not altering text)

C1 Sch. 2 Ground 6 applied with modifications by [Local Government and Housing Act 1989 \(c. 42, SIF 75:1\)](#), s. 186, [Sch. 10 paras. 5, 21, 22](#)

Marginal Citations

M2 1977 c. 42.

M3 1976 c. 80.

For the purposes of this ground, if, immediately before the grant of the tenancy, the tenant to whom it was granted or, if it was granted to joint tenants, any of them was the tenant or one of the joint tenants [^{F3}of the dwelling-house concerned] under an earlier assured tenancy [^{F4}or, as the case may be, under a tenancy to which Schedule 10 to the Local Government and Housing Act 1989 applied], any reference in paragraph (b) above to the grant of the tenancy is a reference to the grant of that earlier assured tenancy [^{F3}or, as the case may be, to the grant of the tenancy to which the said Schedule 10 applied].

Textual Amendments

F3 Words in Sch. 2 Pt. I Ground 6 inserted by [Local Government and Housing Act 1989 \(c. 42, SIF 75:1\)](#), s. 194, [Sch. 11 para. 108](#)

F4 Words in Sch. 2 Pt. I Ground 6 substituted by [Local Government and Housing Act 1989 \(c. 42, SIF 75:1\)](#), s. 194, [Sch. 11 para. 108](#)

For the purposes of this ground [^{F5}“registered social landlord” has the same meaning as in the Housing Act 1985 (see section 5(4) and (5) of that Act)] and “charitable housing trust” means a housing trust, within the meaning of [^{F6}the Housing Associations Act 1985], which is a charity, within the meaning of [^{F7}the Charities Act 1993].

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Textual Amendments

- F5** Sch. 2 Pt. I Ground 6: definition of “registered social landlord” substituted (1.10.1996) for the definition of “registered housing association” by [S.I. 1996/2325, art. 5\(1\)](#), [Sch. 2 para. 18\(13\)\(b\)](#)
- F6** Words in Sch. 2 Pt. I Ground 6 substituted (1.10.1996) by [S.I. 1996/2325, art. 5\(1\)](#), [Sch. 2 para. 18\(13\)\(c\)](#)
- F7** Words in [Sch. 2 Pt. I](#) Ground 6 substituted (1.8.1993) by [1993 c. 10, ss. 98\(1\), 99\(1\)](#), [Sch. 6 para. 30](#)

F8 . . .

Textual Amendments

- F8** Words in Sch. 2 Pt. I Ground 6 repealed (1.10.1996) by [1996 c. 52, s. 227](#), [Sch. 19 Pt. IX](#); [S.I. 1996/2402, art. 3](#) (subject to transitional provisions in [Sch.](#))

Textual Amendments

- F2** Words in Sch. 2 Pt. I Ground 6 substituted (1.10.1996) by [S.I. 1996/2325, art. 5\(1\)](#), [Sch. 2 para. 18\(13\)\(a\)](#)
- F3** Words in Sch. 2 Pt. I Ground 6 inserted by [Local Government and Housing Act 1989 \(c. 42, SIF 75:1\), s. 194](#), [Sch. 11 para. 108](#)
- F4** Words in Sch. 2 Pt. I Ground 6 substituted by [Local Government and Housing Act 1989 \(c. 42, SIF 75:1\), s. 194](#), [Sch. 11 para. 108](#)
- F5** Sch. 2 Pt. I Ground 6: definition of “registered social landlord” substituted (1.10.1996) for the definition of “registered housing association” by [S.I. 1996/2325, art. 5\(1\)](#), [Sch. 2 para. 18\(13\)\(b\)](#)
- F6** Words in Sch. 2 Pt. I Ground 6 substituted (1.10.1996) by [S.I. 1996/2325, art. 5\(1\)](#), [Sch. 2 para. 18\(13\)\(c\)](#)
- F7** Words in [Sch. 2 Pt. I](#) Ground 6 substituted (1.8.1993) by [1993 c. 10, ss. 98\(1\), 99\(1\)](#), [Sch. 6 para. 30](#)
- F8** Words in Sch. 2 Pt. I Ground 6 repealed (1.10.1996) by [1996 c. 52, s. 227](#), [Sch. 19 Pt. IX](#); [S.I. 1996/2402, art. 3](#) (subject to transitional provisions in [Sch.](#))

Modifications etc. (not altering text)

- C1** Sch. 2 Ground 6 applied with modifications by [Local Government and Housing Act 1989 \(c. 42, SIF 75:1\), s. 186](#), [Sch. 10 paras. 5, 21, 22](#)

Marginal Citations

- M2** [1977 c. 42.](#)
- M3** [1976 c. 80.](#)

Ground 7

The tenancy is a periodic tenancy (including a statutory periodic tenancy) which has devolved under the will or intestacy of the former tenant and the proceedings for the recovery of possession are begun not later than twelve months after the death of the former tenant or, if the court so directs, after the date on which, in the opinion of the court, the landlord or, in the case of joint landlords, any one of them became aware of the former tenant’s death.

For the purposes of this ground, the acceptance by the landlord of rent from a new tenant after the death of the former tenant shall not be regarded as creating a new periodic tenancy, unless the landlord agrees in writing to a change (as compared with the tenancy before the death) in the amount of the rent, the period of the tenancy, the premises which are let or any other term of the tenancy.

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Ground 8

Both at the date of the service of the notice under section 8 of this Act relating to the proceedings for possession and at the date of the hearing—

- (a) if rent is payable weekly or fortnightly, at least [^{F9}eight weeks'] rent is unpaid;
 - (b) if rent is payable monthly, at least [^{F10}two months'] rent is unpaid;
 - (c) if rent is payable quarterly, at least one quarter's rent is more than three months in arrears; and
 - (d) if rent is payable yearly, at least three months' rent is more than three months in arrears;
- and for the purpose of this ground “rent” means rent lawfully due from the tenant.

Textual Amendments

- F9** Words in Sch. 2 Pt. I Ground 8 para. (a) substituted (28.2.1997) by 1996 c. 52, s. 101(a); S.I. 1997/225, art. 2
- F10** Words in Sch. 2 Pt. I Ground 8 para. (b) substituted (1.1.1997) by 1996 c. 52, s. 101(b); S.I. 1997/225, art. 2

Textual Amendments

- F9** Words in Sch. 2 Pt. I Ground 8 para. (a) substituted (28.2.1997) by 1996 c. 52, s. 101(a); S.I. 1997/225, art. 2
- F10** Words in Sch. 2 Pt. I Ground 8 para. (b) substituted (1.1.1997) by 1996 c. 52, s. 101(b); S.I. 1997/225, art. 2

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