



Housing Act 1988

1988 CHAPTER 50

PART I

RENTED ACCOMMODATION

CHAPTER I

ASSURED TENANCIES

Miscellaneous

17 Succession to [^{F1}assured tenancy].

(1) [^{F2}Subject to subsection (1D),] In any case where—

- (a) the sole tenant under an assured periodic tenancy dies, and
- (b) immediately before the death, the tenant's spouse [^{F3}or civil partner] was occupying the dwelling-house as his or her only or principal home, and

^{F4}(c)

then, on the death, the tenancy vests by virtue of this section in the spouse [^{F3}or civil partner] (and, accordingly, does not devolve under the tenant's will or intestacy).

[^{F5}(1A) Subject to subsection (1D), in any case where—

- (a) there is an assured periodic tenancy of a dwelling-house in England under which—
 - (i) the landlord is a private registered provider of social housing, and
 - (ii) the tenant is a sole tenant,
- (b) the tenant under the tenancy dies,
- (c) immediately before the death, the dwelling-house was not occupied by a spouse or civil partner of the tenant as his or her only or principal home,
- (d) an express term of the tenancy makes provision for a person other than such a spouse or civil partner of the tenant to succeed to the tenancy, and

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(e) there is a person whose succession is in accordance with that term,
 then, on the death, the tenancy vests by virtue of this section in that person (and, accordingly, does not devolve under the tenant's will or intestacy).

(1B) Subject to subsection (1D), in any case where—

(a) there is an assured tenancy of a dwelling-house in England for a fixed term of not less than two years under which—

- (i) the landlord is a private registered provider of social housing, and
- (ii) the tenant is a sole tenant,

(b) the tenant under the tenancy dies, and

(c) immediately before the death, the tenant's spouse or civil partner was occupying the dwelling-house as his or her only or principal home,

then, on the death, the tenancy vests by virtue of this section in the spouse or civil partner (and, accordingly, does not devolve under the tenant's will or intestacy).

(1C) Subject to subsection (1D), in any case where—

(a) there is an assured tenancy of a dwelling-house in England for a fixed term of not less than two years under which—

- (i) the landlord is a private registered provider of social housing, and
- (ii) the tenant is a sole tenant,

(b) the tenant under the tenancy dies,

(c) immediately before the death, the dwelling-house was not occupied by a spouse or civil partner of the tenant as his or her only or principal home,

(d) an express term of the tenancy makes provision for a person other than such a spouse or civil partner of the tenant to succeed to the tenancy, and

(e) there is a person whose succession is in accordance with that term,

then, on the death, the tenancy vests by virtue of this section in that person (and accordingly does not devolve under the tenant's will or intestacy).

(1D) Subsection (1), (1A), (1B) or (1C) does not apply if the tenant was himself a successor as defined in subsection (2) or subsection (3).

(1E) In such a case, on the death, the tenancy vests by virtue of this section in a person ("P") (and, accordingly, does not devolve under the tenant's will or intestacy) if, and only if—

- (a) (in a case within subsection (1)) the tenancy is of a dwelling-house in England under which the landlord is a private registered provider of social housing,
- (b) an express term of the tenancy makes provision for a person to succeed a successor to the tenancy, and
- (c) P's succession is in accordance with that term.]

(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.

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- (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.
- [^{F6}(4) For the purposes of this section, a person who was living with the tenant as if they were a married couple or civil partners is to be treated as the tenant’s spouse or civil partner.]
- (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) [^{F7}or (1B)(c)] above, such one of them as may be decided by agreement or, in default of agreement, by the county court [^{F8}shall for the purposes of this section be [^{F9}treated as the tenant’s spouse][^{F10}or civil partner].]
- [^{F11}(6) If, on the death of the tenant, there is more than one person in whom the tenancy would otherwise vest by virtue of subsection (1A), (1C) or (1E), the tenancy vests in such one of them as may be agreed between them or, in default of agreement, as is determined by the county court.
- (7) This section does not apply to a fixed term assured tenancy that is a lease of a dwelling-house—
- (a) granted on payment of a premium calculated by reference to a percentage of the value of the dwelling-house or of the cost of providing it, or
 - (b) under which the lessee (or the lessee’s personal representatives) will or may be entitled to a sum calculated by reference, directly or indirectly, to the value of the dwelling-house.]

Textual Amendments

- F1** Words in s. 17 heading substituted (1.4.2012) by [Localism Act 2011 \(c. 20\)](#), **ss. 161(2)**, 240(2) (with s. 161(7)); [S.I. 2012/628, art. 6\(a\)](#) (with arts. 911141517)
- F2** Words in s. 17(1) inserted (1.4.2012) by [Localism Act 2011 \(c. 20\)](#), **ss. 161(3)(a)**, 240(2) (with s. 161(7)); [S.I. 2012/628, art. 6\(a\)](#) (with arts. 911141517)
- F3** Words in s. 17(1) inserted (5.12.2005) by [Civil Partnership Act 2004 \(c. 33\)](#), ss. 81, 263, **Sch. 8 para. 41(1)(2)**, [S.I. 2005/3175](#), {art. 2(1)}, Sch. 1
- F4** S. 17(1)(c) repealed (1.4.2012) by [Localism Act 2011 \(c. 20\)](#), ss. 161(3)(b), 240(2), **Sch. 25 Pt. 23** (with s. 161(7)); [S.I. 2012/628, art. 6\(a\)](#) (with arts. 911141517)
- F5** S. 17(1A)-(1E) inserted (1.4.2012) by [Localism Act 2011 \(c. 20\)](#), **ss. 161(4)**, 240(2) (with s. 161(7)); [S.I. 2012/628, art. 6\(a\)](#) (with arts. 911141517)
- F6** S. 17(4) substituted (2.12.2019) by [The Civil Partnership \(Opposite-sex Couples\) Regulations 2019 \(S.I. 2019/1458\)](#), reg. 1(2), **Sch. 3 para. 12(2)(a)**
- F7** Words in s. 17(5) inserted (1.4.2012) by [Localism Act 2011 \(c. 20\)](#), **ss. 161(5)**, 240(2) (with s. 161(7)); [S.I. 2012/628, art. 6\(a\)](#) (with arts. 911141517)
- F8** Words in s. 17(5) substituted (5.12.2005) by [Civil Partnership Act 2004 \(c. 33\)](#), ss. 81, 263, **Sch. 8 para. 41(1)(4)**; [S.I. 2005/3175, art. 2\(1\)](#), Sch. 1
- F9** Words in s. 17(5) substituted (13.3.2014) by [The Marriage \(Same Sex Couples\) Act 2013 \(Consequential and Contrary Provisions and Scotland\) Order 2014 \(S.I. 2014/560\)](#), art. 1(2), **Sch. 1 para. 20**

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F10 Words in s. 17(5) substituted (2.12.2019) by [The Civil Partnership \(Opposite-sex Couples\) Regulations 2019 \(S.I. 2019/1458\)](#), reg. 1(2), **Sch. 3 para. 12(2)(b)**

F11 S. 17(6)(7) inserted (1.4.2012) by [Localism Act 2011 \(c. 20\)](#), **ss. 161(6)**, 240(2) (with s. 161(7)); [S.I. 2012/628](#), art. 6(a) (with arts. 911141517)

Modifications etc. (not altering text)

C1 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**

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Changes and effects yet to be applied to :

- specified provision(s) savings for amendments by 2018 anaw 1, s. 6, Sch. 6 by [S.I. 2019/110 reg. 5](#)

Changes and effects yet to be applied to the whole Act associated Parts and Chapters:

- Act savings and transitional provisions for amendments by S.I. 2022/1166 by [S.I. 2022/1172 Regulations](#)