



# Localism Act 2011

## 2011 CHAPTER 20

### PART 7

#### HOUSING

### CHAPTER 2

#### SOCIAL HOUSING: TENURE REFORM

##### *Other provisions relating to tenancies of social housing*

#### **162 Secure and assured tenancies: recovery of possession after tenant's death**

(1) In section 90 of the Housing Act 1985 (devolution of fixed term secure tenancy) after subsection (4) insert—

“(5) The following provisions apply where a tenancy that was a secure tenancy of a dwelling-house in England—

- (a) has been vested or otherwise disposed of in the course of the administration of the secure tenant's estate, and
- (b) has ceased to be a secure tenancy by virtue of this section.

(6) Subject as follows, the landlord may apply to the court for an order for possession of the dwelling-house let under the tenancy.

(7) The court may not entertain proceedings for an order for possession under this section unless—

- (a) the landlord has served notice in writing on the tenant—
  - (i) stating that the landlord requires possession of the dwelling-house, and
  - (ii) specifying a date after which proceedings for an order for possession may be begun, and

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*Changes to legislation: Localism Act 2011, Section 162 is up to date with all changes known to be in force on or before 21 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) View outstanding changes*

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- (b) that date has passed without the tenant giving up possession of the dwelling-house.
- (8) The date mentioned in subsection (7)(a)(ii) must fall after the end of the period of four weeks beginning with the date on which the notice is served on the tenant.
- (9) On an application to the court for an order for possession under this section, the court must make such an order if it is satisfied that subsection (5) applies to the tenancy.
- (10) The tenancy ends when the order is executed.”
- (2) In Part 3 of Schedule 2 to that Act (grounds on which court may order possession of dwelling-house let on secure tenancy if reasonable and if alternative accommodation is available) after Ground 15 insert—

*“Ground 15A* The dwelling-house is in England, the accommodation afforded by it is more extensive than is reasonably required by the tenant and—

- (a) the tenancy vested in the tenant by virtue of section 89 (succession to periodic tenancy) or 90 (devolution of term certain) in a case where the tenant was not the previous tenant's spouse or civil partner, and
- (b) notice of the proceedings for possession was served under section 83 (or, where no such notice was served, the proceedings for possession were begun) more than six months but less than twelve months after the relevant date.

For this purpose “the relevant date” is—

- (a) the date of the previous tenant's death, or
- (b) if the court so directs, 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 previous tenant's death.

The matters to be taken into account by the court in determining whether it is reasonable to make an order on this ground include—

- (a) the age of the tenant,
- (b) the period (if any) during which the tenant has occupied the dwelling-house as the tenant's only or principal home, and
- (c) any financial or other support given by the tenant to the previous tenant.”

- (3) In that Part of that Schedule, in Ground 16 (vesting of tenancy in member of previous tenant's family other than his or her spouse or civil partner)—
  - (a) at the beginning of the first unnumbered paragraph for “The accommodation afforded by the dwelling-house” substitute “ The dwelling-house is in Wales, the accommodation afforded by it ”,
  - (b) in the first unnumbered paragraph—
    - (i) in paragraph (a) after “tenancy” insert “ or 90 (devolution of term certain) ”, and
    - (ii) in paragraph (b) for “the date of the previous tenant's death” substitute “ the relevant date ”, and
  - (c) after the first unnumbered paragraph insert—

“For this purpose “the relevant date” is—

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- (a) the date of the previous tenant's death, or
  - (b) if the court so directs, 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 previous tenant's death.”
- (4) In section 7 of the Housing Act 1988 (orders for possession of assured tenancies) after subsection (6) insert—

“(6A) In the case of a dwelling-house in England, subsection (6)(a) has effect as if it also referred to Ground 7 in Part 1 of Schedule 2 to this Act.”

- (5) In Part 1 of Schedule 2 to that Act (grounds for possession of dwelling-houses let on assured tenancies: grounds on which court must order possession) in Ground 7 (devolution of tenancy under will or intestacy)—
- (a) in the first unnumbered paragraph, after “tenancy)” insert “ , or a fixed term tenancy of a dwelling-house in England, ”,
  - (b) in the second unnumbered paragraph—
    - (i) omit “periodic”, and
    - (ii) after “period” insert “ or length of term ”, and
  - (c) after that paragraph insert—

“This ground does not apply to a fixed term 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.”

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#### Commencement Information

- I1** S. 162(1)(2)(3)(a)(4)(5) in force at 1.4.2012 by S.I. 2012/628, **art. 6(b)** (with arts. 9, 11, 14, 15, 17)
- I2** S. 162(3)(b)(c) in force at 1.4.2012 for W. by S.I. 2012/887, **art. 3(b)** (with art. 4)

**Changes to legislation:**

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

Whole provisions yet to be inserted into this Act (including any effects on those provisions):

- s. 158(8)-(9B) substituted for s. 158(8)(9) by [2016 c. 22 s. 121\(2\)\(e\)](#)
- s. 202(3A) inserted by [2023 c. 55 s. 176\(2\)](#)