



# Reserve and Auxiliary Forces (Protection of Civil Interests) Act 1951

1951 CHAPTER 65 14 and 15 Geo 6

## PART III

PROTECTION AGAINST INSECURITY OF TENURE OF BUSINESS AND PROFESSIONAL PREMISES

*Provisions as to England and Wales*

### **27 Renewal of tenancy expiring during period of service or within two months thereafter.**

- (1) The provisions of this Part of this Act shall have effect for empowering the court to order the grant of new tenancies in cases where—
- (a) immediately before beginning (whether after or before the commencement of this Act) a period of relevant service, other than a short period of training, a service man was the working proprietor of a business or professional practice carried on in the premises, or part of the premises, comprised in a tenancy vested in him, and
  - (b) the tenancy (in this Part of this Act referred to as “the expiring tenancy”) would apart from the provisions of this Part of this Act come to an end after the commencement of this Act and before the date of the ending of that period of service or before the expiration of two months from that date, and would so come to an end by effluxion of time or by the expiration of a notice to quit given by the landlord, whether after or before the commencement of this Act, and
  - (c) at the time when an application for the grant of a new tenancy is made under this Part of this Act the service man is still the proprietor of the business or practice and it is still being carried on in the premises, or part of the premises, comprised in the expiring tenancy:

Provided that the said provisions shall not have effect if at the time when the application might otherwise be made the premises comprised in the expiring tenancy

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*Changes to legislation: There are currently no known outstanding effects for the Reserve and Auxiliary Forces (Protection of Civil Interests) Act 1951, Section 27. (See end of Document for details)*

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- [<sup>F1</sup>(a) are an agricultural holding (within the meaning of the Agricultural Holdings Act 1986) held under a tenancy in relation to which that Act applies,
  - (b) are a holding (other than a holding excepted from this provision) held under a farm business tenancy, or
  - (c) consist of or comprise premises (other than premises excepted from this provision) [<sup>F2</sup>which, by virtue of a premises licence under the Licensing Act 2003, may be used for the supply of alcohol (within the meaning of section 14 of that Act) for consumption on the premises].]
- (2) For the purposes of paragraph (a) of the last preceding subsection a service man shall be deemed to have been at any time the working proprietor of a business or professional practice carried on as mentioned in that paragraph if, and only if, he was the proprietor of the business or practice during the whole of the period of one year immediately preceding that time and, during more than one-half of that period, either—
- (a) he worked whole-time in the actual management or conduct of that business or practice, or
  - (b) he worked whole-time in the actual management or conduct of a business or professional practice of which that business or practice was a branch and was mainly engaged in the management or conduct of that branch.
- (3) In the preceding provisions of this section the expression “proprietor” means, in the case of a business or practice carried on by a partnership firm, a partner in the firm on terms and conditions entitling him to not less than one half of the profits of the firm, and, in the case of a business or practice carried on by a company, a person holding shares in the company amounting in nominal value to not less than one half of the issued share capital of the company; and, in relation to a business or practice carried on by a partnership firm or by a company, references in those provisions to the proprietor of the business or practice include references to a person being one of two such partners in the firm or, as the case may be, being one of two persons each holding such shares in the company, and references to the working proprietor of the business or practice shall be construed accordingly.
- (4) In relation to a business or practice carried on by a partnership firm or by a company, references in the preceding provisions of this section to a tenancy vested in the service man include references to a tenancy vested in one or more partners of the firm, or vested in the company, as the case may be; and for the purposes of those provisions and of this subsection a tenancy shall be treated as having been vested at any time in a person if it was then vested in trustees, or held as part of the estate of a deceased person, and the first-mentioned person then had a right or permission to occupy the premises comprised in the tenancy, or the part of those premises in which the business or practice was being carried on, being a right or permission arising by reason of a beneficial interest (whether direct or derivative) under the trusts or, as the case may be, in the estate of the deceased person or under trusts of which the deceased person was trustee.
- (5) In this section—
- (a) the expression “profits” in relation to a firm means such profits of the firm as are from time to time distributable among the partners therein;
  - (b) the expression “company” [<sup>F3</sup>has the meaning given by section 1(1) of the Companies Act 2006];
- [<sup>F4</sup>(bb) the expressions “farm business tenancy” and “holding”, in relation to such a tenancy, have the same meaning as in the Agricultural Tenancies Act 1995;]

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- (c) the expression “share” includes stock and the expression “share capital” shall be construed accordingly;

and for the purposes of this section shares held by a person’s [<sup>F5</sup>spouse or civil partner], or held by him jointly with his [<sup>F5</sup>spouse or civil partner], shall be treated as shares held by that person.

[<sup>F6</sup>(5A) In paragraph (b) of the proviso to subsection (1) of this section the reference to a holding excepted from the provision is a reference to a holding held under a farm business tenancy in which there is comprised a dwelling-house occupied by the person responsible for the control (whether as tenant or servant or agent of the tenant) of the management of the holding.]

(6) [<sup>F7</sup>In paragraph (c) of the proviso to subsection (1) of this section, the reference to premises excepted from the provision] is a reference to premises in respect of which—

- (a) the excise licence for the time being in force is a licence the duty in respect of which is the reduced duty payable under section forty-five of the <sup>M1</sup>Finance (1909—10) Act 1910, or a licence granted in pursuance of regulations under subsection (5) of the said section forty-five (which relates to the granting of licences on the provisional payment of reduced duty), or
- (b) the Commissioners of Customs and Excise certify that no application under the said section forty-five has been made in respect of the period for which the excise licence for the time being in force was granted, but that if such an application had been made such a licence could properly have been granted as is mentioned in the preceding paragraph.

#### Textual Amendments

- F1** S. 27(1)(a)-(c) substituted for words (1.9.1995) by 1995 c. 8, ss. 40, 41(2), **Sch. para. 9(2)** (with s. 37)
- F2** Words in s. 27(1) substituted (24.11.2005) by Licensing Act 2003 (c. 17), s. 201(2), **Sch. 6 para. 24** (with ss. 2(3), 15(2), 195); S.I. 2005/3056, art. 2(2)
- F3** Words in s. 27(5)(b) substituted (1.10.2009) by The Companies Act 2006 (Consequential Amendments, Transitional Provisions and Savings) Order 2009 (S.I. 2009/1941), art. 1(2), **Sch. 1 para. 6(2)** (with art. 10)
- F4** S. 27(5)(bb) inserted (1.9.1995) by 1995 c. 8, ss. 40, 41(2), **Sch. para. 9(3)** (with s. 37)
- F5** Words in s. 27(5) substituted (5.12.2005) by Civil Partnership Act 2004 (c. 33), s. 263(8)(a), **Sch. 26 para. 23**; S.I. 2005/3175, art. 2(1), Sch. 1
- F6** S. 27(5A) inserted (1.9.1995) by 1995 c. 8, ss. 40, 41(2), **Sch. para. 9(4)**(with s. 37)
- F7** Words in s. 27(6) substituted (1.9.1995) by 1995 c. 8, ss. 40, 41(2), **Sch. para. 9(5)** (with s. 37)

#### Marginal Citations

- M1** 1910 c. 8.

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