

## 1972 No. 1161 (C. 25)

## LANDLORD AND TENANT

**The Small Tenements Recovery Act 1838 (Repeal)  
(Appointed Day) Order 1972**

<i>Made</i>	- - -	<i>2nd August 1972</i>
<i>Laid before Parliament</i>		<i>8th August 1972</i>
<i>Coming into Operation</i>		<i>1st October 1972</i>

The Secretary of State for the Environment, in exercise of his powers under section 35(5) of the Rent Act 1965(a), and of all other powers enabling him in that behalf, hereby makes the following order:—

*Citation, commencement and interpretation*

**1.**—(1) This order may be cited as the Small Tenements Recovery Act 1838 (Repeal) (Appointed Day) Order 1972, and shall come into operation on 1st October 1972.

(2) The Interpretation Act 1889(b) shall apply for the interpretation of this order as it applies for the interpretation of an Act of Parliament.

*Appointed day*

**2.** The appointed day for the purposes of section 35(5) of the Rent Act 1965 is 1st October 1972.

*Transitional*

**3.** Without prejudice to the operation of section 38(2) of the Interpretation Act 1889, where a complaint has been made before 1st October 1972 to a magistrates' court under the Small Tenements Recovery Act 1838(c) in so far as it has been applied by any other Act or under section 22(2), 45(3), 73(2) or 85(2) of the Housing Act 1957(d) the proceedings may be continued and any warrant issued may be executed as if this order had not been made.

*Peter Walker,*

Secretary of State for the Environment.

2nd August 1972.

(a) 1965 c. 75.  
(c) 1838 c. 74.

(b) 1889 c. 63.  
(d) 1957 c. 56.

## EXPLANATORY NOTE

*(This Note is not part of the Order.)*

This Order applies to England and Wales.

The Small Tenements Recovery Act 1838 enables a landlord, on bringing to an end the tenancy of a house let at £20 a year or less, to obtain an order for possession from a magistrates' court. Part III of the Rent Act 1965 requires all actions for the possession of dwellings to be brought in the county court or the High Court. However, section 35(5) of the 1965 Act preserves, until a day to be appointed, the 1838 Act only in so far as that Act has been applied by other legislation and also the use of certain parallel powers contained in sections 22(2), 45(3), 73(2) and 85(2) of the Housing Act 1957.

This Order fixes 1st October 1972 as the appointed day for the purposes of section 35(5) of the 1965 Act. By virtue of section 52(1) of, and Part II of Schedule 7 to, that Act the 1838 Act is repealed from this day and consequential repeals take effect in the various Acts which apply the 1838 Act, and by virtue of section 51 and paragraph 10 of Schedule 6 consequential amendments are effected to sections 22(2), 45(3), 73(2) and 85(2) of the Housing Act 1957. Amongst the enactments repealed from the appointed day is section 158(2) of the Housing Act 1957 which allows a local authority, for the purpose of exercising their housing powers, to use the 1838 Act to obtain possession (when the tenancy has come to an end) of a house or other building, regardless of the amount of the rent.

SI 1972/1161  
ISBN 0-11-021161-8



780110 211619