



# Protection from Eviction Act 1977

## 1977 CHAPTER 43

### PART I

#### UNLAWFUL EVICTION AND HARASSMENT

##### [<sup>F1</sup>3A Excluded tenancies and licences.

- (1) Any reference in this Act to an excluded tenancy or an excluded licence is a reference to a tenancy or licence which is excluded by virtue of any of the following provisions of this section.
- (2) A tenancy or licence is excluded if—
  - (a) under its terms the occupier shares any accommodation with the landlord or licensor; and
  - (b) immediately before the tenancy or licence was granted and also at the time it comes to an end, the landlord or licensor occupied as his only or principal home premises of which the whole or part of the shared accommodation formed part.
- (3) A tenancy or licence is also excluded if—
  - (a) under its terms the occupier shares any accommodation with a member of the family of the landlord or licensor;
  - (b) immediately before the tenancy or licence was granted and also at the time it comes to an end, the member of the family of the landlord or licensor occupied as his only or principal home premises of which the whole or part of the shared accommodation formed part; and
  - (c) immediately before the tenancy or licence was granted and also at the time it comes to an end, the landlord or licensor occupied as his only or principal home premises in the same building as the shared accommodation and that building is not a purpose-built block of flats.
- (4) For the purposes of subsections (2) and (3) above, an occupier shares accommodation with another person if he has the use of it in common with that person (whether or not also in common with others) and any reference in those subsections to shared

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accommodation shall be construed accordingly, and if, in relation to any tenancy or licence, there is at any time more than one person who is the landlord or licensor, any reference in those subsections to the landlord or licensor shall be construed as a reference to any one of those persons.

(5) In subsections (2) to (4) above—

- (a) “accommodation” includes neither an area used for storage nor a staircase, passage, corridor or other means of access;
- (b) “occupier” means, in relation to a tenancy, the tenant and, in relation to a licence, the licensee; and
- (c) “purpose-built block of flats” has the same meaning as in Part III of Schedule 1 to the Housing Act 1988;

and section 113 of the Housing Act <sup>M1</sup> 1985 shall apply to determine whether a person who is for the purposes of subsection (3) above a member of another’s family as it applies for the purposes of Part IV of that Act.

(6) A tenancy or licence is excluded if it was granted as a temporary expedient to a person who entered the premises in question or any other premises as a trespasser (whether or not, before the beginning of that tenancy or licence, another tenancy or licence to occupy the premises or any other premises had been granted to him).

(7) A tenancy or licence is excluded if—

- (a) it confers on the tenant or licensee the right to occupy the premises for a holiday only; or
- (b) it is granted otherwise than for money or money’s worth.

<sup>F2</sup>[ A tenancy or licence is excluded if it is granted in order to provide accommodation (7A) [<sup>F3</sup>under section 4 or Part VI of the Immigration and Asylum Act 1999].]

[ A tenancy or licence is excluded if it is granted in order to provide accommodation <sup>F4</sup>(7C) under the Displaced Persons (Temporary Protection) Regulations 2005.]

[ A tenancy or licence is excluded if—

- <sup>F5</sup>(7D) (a) it is a residential tenancy agreement within the meaning of Chapter 1 of Part 3 of the Immigration Act 2014, and
- (b) the condition in section 33D(2) of that Act is met in relation to that agreement.]

(8) <sup>M2</sup> A licence is excluded if it confers rights of occupation in a hostel, within the meaning of the Housing Act 1985, which is provided by—

- (a) the council of a county, [<sup>F6</sup> county borough,] district or London Borough, the Common Council of the City of London, the Council of the Isles of Scilly, the Inner London Education Authority, [<sup>F7</sup>a fire and rescue authority created by an order under section 4A of the Fire and Rescue Services Act 2004,][<sup>F8</sup>the London Fire Commissioner,] a joint authority within the meaning of the Local Government Act <sup>M3</sup> 1985 or a residuary body within the meaning of that Act;

[ an economic prosperity board established under section 88 of the Local <sup>F9</sup>(aa) Democracy, Economic Development and Construction Act 2009;

- (ab) a combined authority established under section 103 of that Act;]
- (b) a development corporation within the meaning of the New Towns Act <sup>M4</sup> 1981;
- (c) the [<sup>F10</sup>new towns residuary body];
- (d) an urban development corporation established by an order under section 135 of the Local Government, Planning and Land Act <sup>M5</sup> 1980;

[ a Mayoral development corporation;]

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- <sup>F11</sup>(da)
- (e) a housing action trust established under Part III of the Housing Act <sup>M6</sup> 1988;
- <sup>F12</sup>(f) .....
- (g) the [<sup>F13</sup> Regulator of Social Housing]<sup>F14</sup> . . . ;
- <sup>F15</sup>(ga) [ the Secretary of State under section 89 of the <sup>M7</sup> Housing Associations Act 1985;]
- <sup>F16</sup>(h) [ a housing trust (within the meaning of the Housing Associations Act 1985) which is a charity [<sup>F17</sup>, a private registered provider of social housing] or a registered social landlord (within the meaning of the Housing Act 1985); or.]
- (i) any other person who is, or who belongs to a class of person which is, specified in an order made by the Secretary of State.
- [ In subsection (8)(c) above “new towns residuary body” means—
- <sup>F18</sup>(8A) (a) in relation to England, the Homes and Communities Agency so far as exercising functions in relation to anything transferred (or to be transferred) to it as mentioned in section 52(1)(a) to (d) of the Housing and Regeneration Act 2008 [<sup>F19</sup>or the Greater London Authority so far as exercising its new towns and urban development functions]; and
- (b) in relation to Wales, means the Welsh Ministers so far as exercising functions in relation to anything transferred (or to be transferred) to them as mentioned in section 36(1)(a)(i) to (iii) of the New Towns Act 1981.]
- (9) The power to make an order under subsection (8)(i) above shall be exercisable by statutory instrument which shall be subject to annulment in pursuance of a resolution of either House of Parliament.]

#### Subordinate Legislation Made

**P1** S. 3A(8)(i): s. 3A(8)(i) power exercised by [S.I. 1991/1943](#)

#### Textual Amendments

- F1** S. 3A inserted by [Housing Act 1988 \(c. 50, SIF 75:1\)](#), **ss. 31, 44(2)(b)**
- F2** S. 3A(7A) inserted (11.11.1999) by [1999 c. 33, ss. 169\(1\), 170\(3\)\(s\), Sch. 14, para. 73](#)
- F3** Words in s. 3A(7A) substituted (16.6.2006) by [Immigration, Asylum and Nationality Act 2006 \(c. 13\), ss. 43\(4\)\(a\), 62\(1\), 62\(2\); S.I. 2006/1497, art. 3, Sch.](#)
- F4** S. 3A(7C) inserted (15.6.2005) after (7B) (which is prospectively inserted by [Nationality, Immigration and Asylum Act 2002, s 32\(5\)](#)) by [The Displaced Persons \(Temporary Protection\) Regulations 2005 \(S.I. 2005/1379\), reg. 1, Sch. para. 1](#)
- F5** S. 3A(7D) inserted (1.11.2016 for specified purposes, 1.12.2016 in so far as not already in force) by [Immigration Act 2016 \(c. 19\), ss. 40\(5\), 94\(1\) \(with s. 40\(7\)\); S.I. 2016/1037, regs. 2\(b\), 5\(d\)](#)
- F6** Words in s. 3A(8)(a) inserted (1.4.1996) by [1994 c. 19, s. 22\(2\), Sch. 8 para. 4\(1\) \(with ss. 54\(5\)\(7\), 55\(5\), Sch. 17 paras. 22\(1\), 23\(2\)\); S.I. 1996/396, art. 3, Sch. 1](#)
- F7** Words in s. 3A(8)(a) inserted (31.1.2017 for specified purposes, 3.4.2017 in so far as not already in force) by [Policing and Crime Act 2017 \(c. 3\), s. 183\(1\)\(5\)\(e\), Sch. 1 para. 39; S.I. 2017/399, reg. 2, Sch. para. 38](#)
- F8** Words in s. 3A(8)(a) substituted (31.1.2017 for specified purposes, 1.4.2018 in so far as not already in force) by [Policing and Crime Act 2017 \(c. 3\), s. 183\(1\)\(5\)\(e\), Sch. 2 para. 55; S.I. 2018/227, reg. 4\(c\)](#)
- F9** S. 3A(8)(aa)(ab) inserted (17.12.2009) by [Local Democracy, Economic Development and Construction Act 2009 \(c. 20\), s. 148\(6\), Sch. 6 para. 47; S.I. 2009/3318, art. 2\(c\)](#)
- F10** Words in s. 3A(8)(c) substituted (1.12.2008) by [Housing and Regeneration Act 2008 \(c. 17\), s. 325\(1\), Sch. 8 para. 24\(2\); S.I. 2008/3068, art. 2\(1\)\(w\)\(3\) \(with arts. 6-13, Sch.\)](#)
- F11** S. 3A(8)(da) inserted (15.1.2012) by [Localism Act 2011 \(c. 20\), s. 240\(1\)\(l\), Sch. 22 para. 6](#)

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- F12** S. 3A(8)(f) repealed (1.10.1998) by 1998 c. 38, s. 152, **Sch. 18 Pt. IV** (with ss. 137(1), 139(2), 141(1)); S.I. 1998/2244, **art. 4**
- F13** Words in s. 3A(8)(g) substituted (1.4.2010) by The Housing and Regeneration Act 2008 (Consequential Provisions) Order 2010 (S.I. 2010/866), art. 1(2), **Sch. 2 para. 13(a)** (with art. 6, Sch. 3)
- F14** Words in s. 3A(8)(g) repealed (1.11.1998) by 1998 c. 38, ss. 140, 152, Sch. 16 para. 2(a), **Sch. 18 Pt. IV** (with ss. 137(1), 139(2), 141(1)); S.I. 1998/2244, **art. 5**
- F15** S. 3A(8)(ga) inserted (1.11.1998) by 1998 c. 38, s. 140, **Sch. 16 para. 2(b)** (with ss. 139(2), 141(1), 143(2)); S.I. 1998/2244, **art. 5**
- F16** S. 3A(8)(h) substituted (1.10.1996) by S.I. 1996/2325, art. 5(1), **Sch. 2 para. 7**
- F17** Words in s. 3A(8)(h) inserted (1.4.2010) by The Housing and Regeneration Act 2008 (Consequential Provisions) Order 2010 (S.I. 2010/866), art. 1(2), **Sch. 2 para. 13(b)** (with art. 6, Sch. 3)
- F18** S. 3A(8A) inserted (1.12.2008) by Housing and Regeneration Act 2008 (c. 17), s. 325(1), **Sch. 8 para. 24(3)**; S.I. 2008/3068, art. 2(1)(w)(3) (with arts. 6-13, Sch.)
- F19** Words in s. 3A(8A)(a) inserted (1.4.2012) by Localism Act 2011 (c. 20), s. 240(2), **Sch. 19 para. 6**; S.I. 2012/628, art. 6(i) (with arts. 9, 11, 14, 15, 17)

#### Modifications etc. (not altering text)

- C1** S. 3A(8)(g) modified (1.12.2008) by Transfer of Housing Corporation Functions (Modifications and Transitional Provisions) Order 2008 (S.I. 2008/2839), arts. 1(1), 3, **Sch. para. 1** (with art. 6)

#### Marginal Citations

- M1** 1985 c. 68 (61).  
**M2** 1985 c. 68(61).  
**M3** 1985 c. 51(81:1).  
**M4** 1981 c. 64(123:3).  
**M5** 1980 c. 65(123:1, 2).  
**M6** 1988 c. 50(61).  
**M7** 1985 c. 69.

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