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Landlord and Tenant Act 1985

1985 CHAPTER 70

Supplementary provisions

VALID FROM 01/09/1997

[^{F1}31A Jurisdiction of leasehold valuation tribunal.

- (1) The jurisdiction conferred by this Act on a leasehold valuation tribunal is exercisable by a rent assessment committee constituted in accordance with Schedule 10 to the ^{M1}Rent Act 1977 which when so constituted for the purposes of exercising any such jurisdiction shall be known as a leasehold valuation tribunal.
- (2) The power to make regulations under section 74(1)(b) of the Rent Act 1977 (procedure of rent assessment committees) extends to prescribing the procedure to be followed in connection with any proceedings before a leasehold valuation tribunal under this Act.
- (3) Such regulations may, in particular, make provision—
 - (a) for securing consistency where numerous applications under this Act are or may be brought in respect of the same or substantially the same matters; and
 - (b) empowering a leasehold valuation tribunal to dismiss an application, in whole or in part, on the ground that it is frivolous or vexatious or otherwise an abuse of the process of the tribunal.
- (4) No costs incurred by a party in connection with proceedings under this Act before a leasehold valuation tribunal shall be recoverable by order of any court.
- (5) Paragraphs 2, 3 and 7 of Schedule 22 to the ^{M2}Housing Act 1980 (supplementary provisions relating to leasehold valuation tribunals: appeals and provision of information) apply to a leasehold valuation tribunal constituted for the purposes of this section.
- (6) No appeal shall lie to the Lands Tribunal from a decision of a leasehold valuation tribunal under this Act without the leave of the leasehold valuation tribunal concerned or the Lands Tribunal.

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(7) On any such appeal—

- (a) the Lands Tribunal may exercise any power available to the leasehold valuation tribunal in relation to the original matter, and
- (b) an order of the Lands Tribunal may be enforced in the same way as an order of the leasehold valuation tribunal.]

Textual Amendments

F1 Ss. 31A-31C inserted (1.9.1997 subject to saving in Sch. para. 1 of S.I. 1997/1851 and otherwise 11.8.1998 subject to art. 3 of S.I. 1998/1768) by 1996 c. 52, s. 83(3); S.I. 1997/1851, art. 2; S.I. 1998/1768, art. 2

Marginal Citations

M1 1977 c. 42.
M2 1980 c. 51.

VALID FROM 01/09/1997

[^{F2}31B Leasehold valuation tribunal: applications and fees.

- (1) The Secretary of State may make provision by order as to the form of, or the particulars to be contained in, an application made to a leasehold valuation tribunal under this Act.
- (2) The Secretary of State may make provision by order—
 - (a) requiring the payment of fees in respect of any such application, or in respect of any proceedings before, a leasehold valuation tribunal under this Act; and
 - (b) empowering a leasehold valuation tribunal to require a party to proceedings before it to reimburse any other party the whole or part of any fees paid by him.
- (3) The fees payable shall be such as may be specified in or determined in accordance with the order subject to this limit, that the fees payable in respect of any one application or reference by the court together with any proceedings before the tribunal arising out of that application or reference shall not exceed £500 or such other amount as may be specified by order of the Secretary of State.
- (4) An order under this section may make different provision for different cases or classes of case or for different areas.
- (5) An order may in particular—
 - (a) make different provision in relation to proceedings transferred to the tribunal from that applicable where an application was made to the tribunal, and
 - (b) provide for the reduction or waiver of fees by reference to the financial resources of the party by whom they are to be paid or met.
- (6) In the latter case the order may apply, subject to such modifications as may be specified in the order, any other statutory means-testing regime as it has effect from time to time.

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- (7) An order under this section shall be made by statutory instrument.
- (8) No order altering the limit under subsection (3) shall be made unless a draft of the order has been laid before and approved by a resolution of each House of Parliament.
- (9) Any other order under this section, unless it contains only such provision as is mentioned in subsection (1), shall be subject to annulment in pursuance of a resolution of either House of Parliament.]

Textual Amendments

F2 Ss. 31A-31C inserted (1.9.1997 subject to saving in Sch. para. 1 of S.I. 1997/1851 and otherwise 11.8.1998 subject to art. 3 of S.I. 1998/1768) by 1996 c. 52, s. 83(3); S.I. 1997/1851, art. 2; S.I. 1998/1768, art. 2

VALID FROM 01/09/1997

[^{F3}31C Transfer of cases from county court.

- (1) Where in any proceedings before a court there falls for determination a question falling within the jurisdiction of a leasehold valuation tribunal under this Act, the court—
 - (a) may by order transfer to such a tribunal so much of the proceedings as relate to the determination of that question, and
 - (b) may then dispose of all or any remaining proceedings, or adjourn the disposal of all or any of such proceedings, pending the determination of that question by the tribunal, as it thinks fit.
- (2) When the tribunal has determined the question, the court may give effect to the determination in an order of the court.
- (3) Any such order shall be treated as a determination by the court for the purposes of section 81 of the Housing Act 1996 (restriction on termination of tenancy for failure to pay service charge).
- (4) Rules of court may prescribe the procedure to be followed in the court in connection with or in consequence of a transfer under this section.]

Textual Amendments

F3 Ss. 31A-31C inserted (1.9.1997 subject to saving in Sch. para. 1 of S.I. 1997/1851 and otherwise 11.8.1998 subject to art. 3 of S.I. 1998/1768) by 1996 c. 52, s. 83(3); S.I. 1997/1851, art. 2; S.I. 1998/1768, art. 2

32 Provisions not applying to tenancies within Part II of the Landlord and Tenant Act 1954.

- (1) The following provisions do not apply to a tenancy to which Part II of the ^{M3}Landlord and Tenant Act 1954 (business tenancies) applies—

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sections 1 to 3 (information to be given to tenant),
section 17 (specific performance of landlord's repairing obligations).

- (2) Section 11 (repairing obligations) does not apply to a new lease granted to an existing tenant, or to a former tenant still in possession, if the new lease is a tenancy to which Part II of the Landlord and Tenant Act 1954 applies and the previous lease either is such a tenancy or would be but for section 28 of that Act (tenancy not within Part II if renewal agreed between the parties).

In this subsection "existing tenant", "former tenant still in possession" and "previous lease" have the same meaning as in section 14(2).

- (3) Section 31 (reserve power to limit rents) does not apply to a dwelling forming part of a property subject to a tenancy to which Part II of the ^{M4}Landlord and Tenant Act 1954 applies; but without prejudice to the application of that section in relation to a sub-tenancy of a part of the premises comprised in such a tenancy.

Marginal Citations

- M3 1954 c. 56.
M4 1954 c. 56.

33 Liability of directors, &c. for offences by body corporate.

- (1) Where an offence under this Act which has been committed by a body corporate is proved—
- (a) to have been committed with the consent or connivance of a director, manager, secretary or other similar officer of the body corporate, or a person purporting to act in any such capacity, or
 - (b) to be attributable to any neglect on the part of such an officer or person,
- he, as well as the body corporate, is guilty of an offence and liable to be proceeded against and punished accordingly.
- (2) Where the affairs of a body corporate are managed by its members, subsection (1) applies in relation to the acts and defaults of a member in connection with his functions of management as if he were a director of the body corporate.

34 Power of local housing authority to prosecute.

Proceedings for an offence under any provision of this Act may be brought by a local housing authority.

35 Application to Isles of Scilly.

- (1) This Act applies to the Isles of Scilly subject to such exceptions, adaptations and modifications as the Secretary of State may by order direct.
- (2) An order shall be made by statutory instrument which shall be subject to annulment in pursuance of a resolution of either House of Parliament.

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36 Meaning of “lease” and “tenancy” and related expressions.

- (1) In this Act “lease” and “tenancy” have the same meaning.
- (2) Both expressions include—
 - (a) a sub-lease or sub-tenancy, and
 - (b) an agreement for a lease or tenancy (or sub-lease or sub-tenancy).
- (3) The expressions “lessor” and “lessee” and “landlord” and “tenant”, and references to letting, to the grant of a lease or to covenants or terms, shall be construed accordingly.

37 Meaning of “statutory tenant” and related expressions.

In this Act—

- (a) “statutory tenancy” and “statutory tenant” mean a statutory tenancy or statutory tenant within the meaning of the ^{M5}Rent Act 1977 or the ^{M6}Rent (Agriculture) Act 1976; and
- (b) “landlord”, in relation to a statutory tenant, means the person who, apart from the statutory tenancy, would be entitled to possession of the premises.

Marginal Citations

M5 1977 c. 42.

M6 1976 c. 80.

38 Minor definitions.

In this Act—

“address” means a person’s place of abode or place of business or, in the case of a company, its registered office;

“co-operative housing association” has the same meaning as in the ^{M7}Housing Associations Act 1985;

“dwelling” means a building or part of a building occupied or intended to be occupied as a separate dwelling together with any yard, garden, outhouses and appurtenances belonging to it or usually enjoyed with it;

“housing association” has the same meaning as in the Housing Associations Act 1985;

“local authority” means a district, county [^{F4}county borough] or London borough council, the Common Council of the City of London or the Council of the Isles of Scilly and in sections 14(4), 26(1) and 28(6) includes . . . ^{F5}[^{F6}the Broads Authority][^{F7}, a police authority established under section 3 of the Police Act 1964 and] a joint authority established by Part IV of the ^{M8}Local Government Act 1985;

“local housing authority” has the meaning given by section 1 of the ^{M9}Housing Act 1985;

“new town corporation” means—

- (a) a development corporation established by an order made, or treated as made, under the ^{M10}New Towns Act 1981, or
- (b) the Commission for the New Towns;

“protected tenancy” has the same meaning as in the Rent Act 1977;

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“registered”, in relation to a housing association, means registered under the Housing Associations Act 1985;

“restricted contract” has the same meaning as in the Rent Act 1977;

“urban development corporation” has the same meaning as in Part XVI of the ^{M11}Local Government, Planning and Land Act 1980.

Textual Amendments

- F4** Words in s. 38 inserted (1.4.1996) by 1994 c. 19, s. 22(2), **Sch. 8 para. 7** (with ss. 54(5)(7), 55(5), Sch. 17 paras. 22(1), 23(2)); S.I. 1996/396, art. 3, **Sch. 1**
- F5** Words repealed by Education Reform Act 1988 (c. 40, SIF 41:1), ss. 231(7), 235(6), 237(2), **Sch. 13 Pt. I**
- F6** Words inserted by Norfolk and Suffolk Broads Act 1988 (c. 4, SIF 81:1), ss. 23(2), 27(2), **Sch. 6 para. 26**
- F7** Words in s. 38 inserted (1.10.1994 subject to modifications in art. 6(3)-(6) of S.I. 1994/2025 and otherwise 1.4.1995 by S.I. 1994/3262) by 1994 c. 29, s. 43, **Sch. 4 Pt. II para. 60**; S.I. 1994/2025, **art. 6**; S.I. 1994/3262, art. 4, **Sch.**

Modifications etc. (not altering text)

- C1** S. 38 extended by S.I. 1985/1884, art. 10, **Sch. 3 para. 4(y)**

Marginal Citations

- M7** 1985 c. 69.
- M8** 1985 c. 51
- M9** 1985 c. 68.
- M10** 1981 c. 64.
- M11** 1980 c. 65.

39 Index of defined expressions.

The following Table shows provisions defining or otherwise explaining expressions used in this Act (other than provisions) defining or explaining an expression in the same section):

address	section 38
co-operative housing association	section 38
dwelling	section 38
dwelling-house (in the provisions relating to repairing obligations)	section 16
fit for human habitation	section 10
flat (in the provisions relating to service charges)	section 30
housing association	section 38
landlord—	
(generally)	section 36(3)
(in sections 1 and 2)	section 1(3)

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(in the provisions relating to rent books)	section 4(3)
(in the provisions relating to service charges)	section 30
(in relation to a statutory tenancy) lease, lessee and lessor—	section 37(b)
(generally)	section 36
(in the provisions relating to repairing obligations)	section 16
local authority	section 38
local housing authority	section 38
new town corporation	section 38
protected tenancy	section 38
qualified accountant (for the purposes of section 21(6))	section 28
registered social landlord	section 38
recognised tenants' association	section 29
relevant costs (in relation to a service charge)	section 18(2)
restricted contract	section 38
service charge	section 18(1)
statutory tenant	section 37(a)
tenancy and tenant—	
(generally)	section 36
(in sections 1 and 2)	section 1(3)
(in the provisions relating to rent books)	section 4(3)
(in the provisions relating to service charges)	section 30
urban development corporation	section 38

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