



# Landlord and Tenant Act 1987

## 1987 CHAPTER 31

### PART II

#### APPOINTMENT OF MANAGERS BY THE COURT

#### **21 Tenant's right to apply to court for appointment of manager**

- (1) The tenant of a flat contained in any premises to which this Part applies may, subject to the following provisions of this Part, apply to the court for an order under section 24 appointing a manager to act in relation to those premises.
- (2) Subject to subsection (3), this Part applies to premises consisting of the whole or part of a building if the building or part contains two or more flats.
- (3) This Part does not apply to any such premises at a time when—
  - (a) the interest of the landlord in the premises is held by an exempt landlord or a resident landlord, or
  - (b) the premises are included within the functional land of any charity.
- (4) An application for an order under section 24 may be made—
  - (a) jointly by tenants of two or more flats if they are each entitled to make such an application by virtue of this section, and
  - (b) in respect of two or more premises to which this Part applies;and, in relation to any such joint application as is mentioned in paragraph (a), references in this Part to a single tenant shall be construed accordingly.
- (5) Where the tenancy of a flat contained in any such premises is held by joint tenants, an application for an order under section 24 in respect of those premises may be made by any one or more of those tenants.
- (6) An application to the court for it to exercise in relation to any premises any jurisdiction existing apart from this Act to appoint a receiver or manager shall not be made by a tenant (in his capacity as such) in any circumstances in which an application could be made by him for an order under section 24 appointing a manager to act in relation to those premises.

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- (7) References in this Part to a tenant do not include references to a tenant under a tenancy to which Part II of the Landlord and Tenant Act 1954 applies.

## **22 Preliminary notice by tenant**

- (1) Before an application for an order under section 24 is made in respect of any premises to which this Part applies by a tenant of a flat contained in those premises, a notice under this section must (subject to subsection (3)) be served on the landlord by the tenant.
- (2) A notice under this section must—
- (a) specify the tenant's name, the address of his flat and an address in England and Wales (which may be the address of his flat) at which the landlord may serve notices, including notices in proceedings, on him in connection with this Part;
  - (b) state that the tenant intends to make an application for an order under section 24 to be made by the court in respect of such premises to which this Part applies as are specified in the notice, but (if paragraph (d) is applicable) that he will not do so if the landlord complies with the requirement specified in pursuance of that paragraph;
  - (c) specify the grounds on which the court would be asked to make such an order and the matters that would be relied on by the tenant for the purpose of establishing those grounds;
  - (d) where those matters are capable of being remedied by the landlord, require the landlord, within such reasonable period as is specified in the notice, to take such steps for the purpose of remedying them as are so specified; and
  - (e) contain such information (if any) as the Secretary of State may by regulations prescribe.
- (3) The court may (whether on the hearing of an application for an order under section 24 or not) by order dispense with the requirement to serve a notice under this section in a case where it is satisfied that it would not be reasonably practicable to serve such a notice on the landlord, but the court may, when doing so, direct that such other notices are served, or such other steps are taken, as it thinks fit.
- (4) In a case where—
- (a) a notice under this section has been served on the landlord, and
  - (b) his interest in the premises specified in pursuance of subsection (2)(b) is subject to a mortgage,
- the landlord shall, as soon as is reasonably practicable after receiving the notice, serve on the mortgagee a copy of the notice.

## **23 Application to court for appointment of manager**

- (1) No application for an order under section 24 shall be made to the court unless—
- (a) in a case where a notice has been served under section 22, either—
    - (i) the period specified in pursuance of paragraph (d) of subsection (2) of that section has expired without the landlord having taken the steps that he was required to take in pursuance of that provision, or
    - (ii) that paragraph was not applicable in the circumstances of the case; or
  - (b) in a case where the requirement to serve such a notice has been dispensed with by an order under subsection (3) of that section, either—

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- (i) any notices required to be served, and any other steps required to be taken, by virtue of the order have been served or (as the case may be) taken, or
  - (ii) no direction was given by the court when making the order.
- (2) Rules of court shall make provision—
  - (a) for requiring notice of an application for an order under section 24 in respect of any premises to be served on such descriptions of persons as may be specified in the rules; and
  - (b) for enabling persons served with any such notice to be joined as parties to the proceedings.

## **24 Appointment of manager by the court**

- (1) The court may, on an application for an order under this section, by order (whether interlocutory or final) appoint a manager to carry out in relation to any premises to which this Part applies—
  - (a) such functions in connection with the management of the premises, or
  - (b) such functions of a receiver,or both, as the court thinks fit.
- (2) The court may only make an order under this section in the following circumstances, namely—
  - (a) where the court is satisfied—
    - (i) that the landlord either is in breach of any obligation owed by him to the tenant under his tenancy and relating to the management of the premises in question or any part of them or (in the case of an obligation dependent on notice) would be in breach of any such obligation but for the fact that it has not been reasonably practicable for the tenant to give him the appropriate notice, and
    - (ii) that the circumstances by virtue of which he is (or would be) in breach of any such obligation are likely to continue, and
    - (iii) that it is just and convenient to make the order in all the circumstances of the case; or
  - (b) where the court is satisfied that other circumstances exist which make it just and convenient for the order to be made.
- (3) The premises in respect of which an order is made under this section may, if the court thinks fit, be either more or less extensive than the premises specified in the application on which the order is made.
- (4) An order under this section may make provision with respect to—
  - (a) such matters relating to the exercise by the manager of his functions under the order, and
  - (b) such incidental or ancillary matters,as the court thinks fit; and, on any subsequent application made for the purpose by the manager, the court may give him directions with respect to any such matters.
- (5) Without prejudice to the generality of subsection (4), an order under this section may provide—

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- (a) for rights and liabilities arising under contracts to which the manager is not a party to become rights and liabilities of the manager;
  - (b) for the manager to be entitled to prosecute claims in respect of causes of action (whether contractual or tortious) accruing before or after the date of his appointment;
  - (c) for remuneration to be paid to the manager by the landlord, or by the tenants of the premises in respect of which the order is made or by all or any of those persons;
  - (d) for the manager's functions to be exercisable by him (subject to subsection (9)) either during a specified period or without limit of time.
- (6) Any such order may be granted subject to such conditions as the court thinks fit, and in particular its operation may be suspended on terms fixed by the court.
- (7) In a case where an application for an order under this section was preceded by the service of a notice under section 22, the court may, if it thinks fit, make such an order notwithstanding—
- (a) that any period specified in the notice in pursuance of subsection (2)(d) of that section was not a reasonable period, or
  - (b) that the notice failed in any other respect to comply with any requirement contained in subsection (2) of that section or in any regulations applying to the notice under section 54(3).
- (8) The Land Charges Act 1972 and the Land Registration Act 1925 shall apply in relation to an order made under this section as they apply in relation to an order appointing a receiver or sequestrator of land.
- (9) The court may, on the application of any person interested, vary or discharge (whether conditionally or unconditionally) an order made under this section; and if the order has been protected by an entry registered under the Land Charges Act 1972 or the Land Registration Act 1925, the court may by order direct that the entry shall be cancelled.
- (10) An order made under this section shall not be discharged by the court by reason only that, by virtue of section 21(3), the premises in respect of which the order was made have ceased to be premises to which this Part applies.
- (11) References in this section to the management of any premises include references to the repair, maintenance or insurance of those premises.