# Housing Act 1988

## 1988 CHAPTER 50

## PART I

### RENTED ACCOMMODATION

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

**C1** Part I (ss. 1–45) modified by S.I. 1990/776, **arts. 2(2)**, 5(2)(b) and excluded by Town and Country Planning Act 1990 (c. 8, SIF 123:1), **s. 242**

**C2** Part I (ss. 1–45) applied by National Health Service and Community Care Act 1990 (c. 19, SIF 113:2), s. 60(2), **Sch. 8**, para. 19(3)

**C3** Part I (ss. 1-45) definition applied (1.12.1991) by Water Industry Act 1991 (c. 56, SIF 130), ss. 167(3), 223(2), **Sch. 11 para. 10** (with ss. 82(3), 186(1), 222(1), Sch. 14 para. 6)

**C4** Pt. I (ss. 1-45) definition applied (1.12.1991) by Water Resources Act 1991 (c. 57, SIF 130), ss. 168(3), 225(2), **Sch. 19 para. 10** (with ss. 15(6), 179, 222(3), 224(1), Sch. 22 para. 1, Sch. 23 para. 6)

**C5** Pt. I (ss. 1-45) restricted (1.11.1993) by 1993 c. 28, **s. 59(2)(c)(iii)**; S.I. 1993/2134, **arts. 2**, 5
Pt. I (ss. 1-45) excluded (3.3.1997) by 1985 c. 68, **s. 348D(5)** (as inserted (3.3.1997) by 1996 c. 52, **s. 67(1)** (with s. 70); S.I. 1997/350, **art. 2**
Pt. I (ss. 1-45) modified (1.10.1996) by 1996 c. 27, **s. 30(4)(b)**; S.I. 1996/2402, **art. 3** (subject to transitional provisions in Sch.)

**C6** Pt. 1 excluded (6.4.2006 for E. and 16.6.2006 for W.) by Housing Act 2004 (c. 34), **ss. 33**, 270(3); S.I. 2006/1060, **art. 2(1)(a)** (with Sch.); S.I. 2006/1535, **art. 2(a)** (with Sch.)

***Status:*** *Point in time view as at 28/08/2020.*
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## CHAPTER I

## ASSURED TENANCIES

*Meaning of assured tenancy etc.*

### 1 Assured tenancies.

(1) A tenancy under which a dwelling-house is let as a separate dwelling is for the purposes of this Act an assured tenancy if and so long as—

(a) the tenant or, as the case may be, each of the joint tenants is an individual; and

(b) the tenant or, as the case may be, at least one of the joint tenants occupies the dwelling-house as his only or principal home; and

(c) the tenancy is not one which, by virtue of subsection (2) or subsection (6) below, cannot be an assured tenancy.

**[**[F1](1A) Subsection (1) has effect subject to section 15A (loss of assured tenancy status).**]**

(2) Subject to subsection (3) below, if and so long as a tenancy falls within any paragraph in Part I of Schedule 1 to this Act, it cannot be an assured tenancy; and in that Schedule—

(a) "tenancy" means a tenancy under which a dwelling-house is let as a separate dwelling;

(b) Part II has effect for determining the rateable value of a dwelling-house for the purposes of Part I; and

(c) Part III has effect for supplementing paragraph 10 in Part I.

**[**[F2](2A) The Secretary of State may by order replace any amount referred to in paragraphs 2 and 3A of Schedule 1 to this Act by such amount as is specified in the order; and such an order shall be made by statutory instrument which shall be subject to annulment in pursuance of a resolution of either House of Parliament.**]**

(3) Except as provided in Chapter V below, at the commencement of this Act, a tenancy—

(a) under which a dwelling-house was then let as a separate dwelling, and

(b) which immediately before that commencement was an assured tenancy for the purposes of sections 56 to 58 of the [M1]Housing Act 1980 (tenancies granted by approved bodies),

shall become an assured tenancy for the purposes of this Act.

(4) In relation to an assured tenancy falling within subsection (3) above—

(a) Part I of Schedule 1 to this Act shall have effect, subject to subsection (5) below, as if it consisted only of paragraphs 11 and 12; and

(b) sections 56 to 58 of the Housing Act 1980 (and Schedule 5 to that Act) shall not apply after the commencement of this Act.

(5) In any case where—

(a) immediately before the commencement of this Act the landlord under a tenancy is a fully mutual housing association, and

(b) at the commencement of this Act the tenancy becomes an assured tenancy by virtue of subsection (3) above,

then, so long as that association remains the landlord under that tenancy (and under any statutory periodic tenancy which arises on the coming to an end of that tenancy),

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paragraph 12 of Schedule 1 to this Act shall have effect in relation to that tenancy with the omission of sub-paragraph (1)(h).

[F3](6) . . . . . .

[F3](7) . . . . . .

**Textual Amendments**

**F1** S. 1(1A) inserted (15.10.2013 for E., 5.11.2013 for W.) by Prevention of Social Housing Fraud Act 2013 (c. 3), s. 12, **Sch. para. 4**; S.I. 2013/2622, art. 2; S.I. 2013/2861, art. 2

**F2** S. 1(2A) inserted by S.I. 1990/434, reg. 2, **Sch. para. 27**

**F3** S. 1(6)(7) repealed (20.1.1997) by 1996 c. 52, s. 227, **Sch. 19 Pt. VIII**; S.I. 1996/2959, **art. 2** (subject to transitional provisions in Sch. para. 1)

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

**C7** S. 1(2) excluded (6.4.2006 for E. and 16.6.2006 for W.) by Housing Act 2004 (c. 34), ss. 132, 270, **Sch. 7 para. 18(6)(b)**; S.I. 2006/1060, **art. 2(1)(a)** (with Sch.); S.I. 2006/1535, **art. 2(a)** (with Sch.)

**C8** S. 1(2) excluded (6.4.2006 for E. and 16.6.2006 for W.) by Housing Act 2004 (c. 34), ss. 132, 270, **Sch. 7 para. 12(5)(b)** (with Sch. 7 para. 12(9)); S.I. 2006/1060, **art. 2(1)(a)** (with Sch.); S.I. 2006/1535, **art. 2(a)** (with Sch.)

**C9** S. 1(2) excluded (6.4.2006 for E. and 16.6.2006 for W.) by Housing Act 2004 (c. 34), ss. 132, 270, **Sch. 7 para. 4(5)(b)**; S.I. 2006/1060 {art. 2(1)(a)} (with Sch.); S.I. 2006/1535, **art. 2(a)** (with Sch.)

**C10** S. 1(2) excluded (16.6.2006 for W. and 6.4.2006 for E.) by Housing Act 2004 (c. 34), **ss. 124(8)**, 270 (with s. 124(9)(10)); S.I. 2006/1535, **art. 2(a)** (with Sch.); S.I. 2006/1060, **art. 2**

**Marginal Citations**

**M1** 1980 c. 51.

## 2 Letting of a dwelling-house together with other land.

(1) If, under a tenancy, a dwelling-house is let together with other land, then, for the purposes of this Part of this Act,—

(a) if and so long as the main purpose of the letting is the provision of a home for the tenant or, where there are joint tenants, at least one of them, the other land shall be treated as part of the dwelling-house; and

(b) if and so long as the main purpose of the letting is not as mentioned in paragraph (a) above, the tenancy shall be treated as not being one under which a dwelling-house is let as a separate dwelling.

(2) Nothing in subsection (1) above affects any question whether a tenancy is precluded from being an assured tenancy by virtue of any provision of Schedule 1 to this Act.

## 3 Tenant sharing accommodation with persons other than landlord.

(1) Where a tenant has the exclusive occupation of any accommodation (in this section referred to as “the separate accommodation”) and—

(a) the terms as between the tenant and his landlord on which he holds the separate accommodation include the use of other accommodation (in this section referred to as “the shared accommodation”) in common with another person or other persons, not being or including the landlord, and

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(b) by reason only of the circumstances mentioned in paragraph (a) above, the separate accommodation would not, apart from this section, be a dwelling-house let on an assured tenancy,

the separate accommodation shall be deemed to be a dwelling-house let on an assured tenancy and the following provisions of this section shall have effect.

(2) For the avoidance of doubt it is hereby declared that where, for the purpose of determining the rateable value of the separate accommodation, it is necessary to make an apportionment under Part II of Schedule 1 to this Act, regard is to be had to the circumstances mentioned in subsection (1)(a) above.

(3) While the tenant is in possession of the separate accommodation, any term of the tenancy terminating or modifying, or providing for the termination or modification of, his right to the use of any of the shared accommodation which is living accommodation shall be of no effect.

(4) Where the terms of the tenancy are such that, at any time during the tenancy, the persons in common with whom the tenant is entitled to the use of the shared accommodation could be varied or their number could be increased, nothing in subsection (3) above shall prevent those terms from having effect so far as they relate to any such variation or increase.

(5) In this section "living accommodation" means accommodation of such a nature that the fact that it constitutes or is included in the shared accommodation is sufficient, apart from this section, to prevent the tenancy from constituting an assured tenancy of a dwelling-house.

**4 Certain sublettings not to exclude any part of sub-lessor's premises from assured tenancy.**

(1) Where the tenant of a dwelling-house has sub-let a part but not the whole of the dwelling-house, then, as against his landlord or any superior landlord, no part of the dwelling-house shall be treated as excluded from being a dwelling-house let on an assured tenancy by reason only that the terms on which any person claiming under the tenant holds any part of the dwelling-house include the use of accommodation in common with other persons.

(2) Nothing in this section affects the rights against, and liabilities to, each other of the tenant and any person claiming under him, or of any two such persons.

*Security of tenure*

**5 Security of tenure.**

[[F4](1) An assured tenancy cannot be brought to an end by the landlord except by—

(a) obtaining—

(i) an order of the court for possession of the dwelling-house under section 7 or 21, and

(ii) the execution of the order,

(b) obtaining an order of the court under section 6A (demotion order), [F5]...

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(c) in the case of a fixed term tenancy which contains power for the landlord to determine the tenancy in certain circumstances, by the exercise of that power**[**[F6], or

(d) in the case of an assured tenancy—

(i) which is a residential tenancy agreement within the meaning of Chapter 1 of Part 3 of the Immigration Act 2014, and

(ii) in relation to which the condition in section 33D(2) of that Act is met,

giving a notice in accordance with that section,**]**

and, accordingly, the service by the landlord of a notice to quit is of no effect in relation to a periodic assured tenancy.

(1A) Where an order of the court for possession of the dwelling-house is obtained, the tenancy ends when the order is executed.**]**

(2) If an assured tenancy which is a fixed term tenancy comes to an end otherwise than by virtue of—

(a) an order of the court **[**[F7]of the kind mentioned in subsection (1)(a) or (b) or any other order of the court**]**, [F8]...

(b) a surrender or other action on the part of the tenant**[**[F9], or

(c) the giving of a notice under section 33D of the Immigration Act 2014,**]**

then, subject to section 7 and Chapter II below, the tenant shall be entitled to remain in possession of the dwelling-house let under that tenancy and, subject to subsection (4) below, his right to possession shall depend upon a periodic tenancy arising by virtue of this section.

(3) The periodic tenancy referred to in subsection (2) above is one—

(a) taking effect in possession immediately on the coming to an end of the fixed term tenancy;

(b) deemed to have been granted by the person who was the landlord under the fixed term tenancy immediately before it came to an end to the person who was then the tenant under that tenancy;

(c) under which the premises which are let are the same dwelling-house as was let under the fixed term tenancy;

(d) under which the periods of the tenancy are the same as those for which rent was last payable under the fixed term tenancy; and

(e) under which, subject to the following provisions of this Part of this Act, the other terms are the same as those of the fixed term tenancy immediately before it came to an end, except that any term which makes provision for determination by the landlord or the tenant shall not have effect while the tenancy remains an assured tenancy.

(4) The periodic tenancy referred to in subsection (2) above shall not arise if, on the coming to an end of the fixed term tenancy, the tenant is entitled, by virtue of the grant of another tenancy, to possession of the same or substantially the same dwelling-house as was let to him under the fixed term tenancy.

(5) If, on or before the date on which a tenancy is entered into or is deemed to have been granted as mentioned in subsection (3)(b) above, the person who is to be the tenant under that tenancy—

(a) enters into an obligation to do any act which (apart from this subsection) will cause the tenancy to come to an end at a time when it is an assured tenancy, or

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(b) executes, signs or gives any surrender, notice to quit or other document which (apart from this subsection) has the effect of bringing the tenancy to an end at a time when it is an assured tenancy,

the obligation referred to in paragraph (a) above shall not be enforceable or, as the case may be, the surrender, notice to quit or other document referred to in paragraph (b) above shall be of no effect.

**[**[F10](5A) Nothing in subsection (5) affects any right of pre-emption—

(a) which is exercisable by the landlord under a tenancy in circumstances where the tenant indicates his intention to dispose of the whole of his interest under the tenancy, and

(b) in pursuance of which the landlord would be required to pay, in respect of the acquisition of that interest, an amount representing its market value.

" Dispose " means dispose by assignment or surrender, and " acquisition " has a corresponding meaning. **]**

(6) If, by virtue of any provision of this Part of this Act, Part I of Schedule 1 to this Act has effect in relation to a fixed term tenancy as if it consisted only of paragraphs 11 and 12, that Part shall have the like effect in relation to any periodic tenancy which arises by virtue of this section on the coming to an end of the fixed term tenancy.

(7) Any reference in this Part of this Act to a statutory periodic tenancy is a reference to a periodic tenancy arising by virtue of this section.

**Textual Amendments**

**F4** S. 5(1)(1A) substituted (20.5.2009) for s. 5(1) by Housing and Regeneration Act 2008 (c. 17), ss. 299, 325, **Sch. 11 para. 6(2)** (with Sch. 11 para. 14); S.I. 2009/1261, {arts. 2, 3}

**F5** Word in s. 5(1)(b) omitted (1.11.2016 for specified purposes, 1.12.2016 in so far as not already in force) by virtue of Immigration Act 2016 (c. 19), **ss. 40(6)(a)**, 94(1) (with s. 40(7)); S.I. 2016/1037, regs. 2(b), 5(d)

**F6** S. 5(1)(d) and word 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(6)(a)**, 94(1) (with s. 40(7)); S.I. 2016/1037, regs. 2(b), 5(d)

**F7** Words in s. 5(2)(a) inserted (20.5.2009) by Housing and Regeneration Act 2008 (c. 17), ss. 299, 325, **Sch. 11 para. 6(3)** (with Sch. 11 para. 14); S.I. 2009/1261, arts. 2, **3**

**F8** Word in s. 5(2)(a) omitted (1.11.2016 for specified purposes, 1.12.2016 in so far as not already in force) by virtue of Immigration Act 2016 (c. 19), **ss. 40(6)(b)**, 94(1) (with s. 40(7)); S.I. 2016/1037, regs. 2(b), 5(d)

**F9** S. 5(2)(c) and word 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(6)(b)**, 94(1) (with s. 40(7)); S.I. 2016/1037, regs. 2(b), 5(d)

**F10** S. 5(5A) inserted (18.1.2005) by Housing Act 2004 (c. 34), **ss. 222(1)(2)**, 270(3)(a)

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

**C11** S. 5 excluded (15.3.2018) by City of London Corporation (Open Spaces) Act 2018 (c. i), **s. 6(7)** (with ss. 3, 4(2))

## 6 Fixing of terms of statutory periodic tenancy.

(1) In this section, in relation to a statutory periodic tenancy,—

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(a) "the former tenancy" means the fixed term tenancy on the coming to an end of which the statutory periodic tenancy arises; and

(b) "the implied terms" means the terms of the tenancy which have effect by virtue of section 5(3)(e) above, other than terms as to the amount of the rent;

but nothing in the following provisions of this section applies to a statutory periodic tenancy at a time when, by virtue of paragraph 11 or paragraph 12 in Part 1 of Schedule 1 to this Act, it cannot be an assured tenancy.

(2) Not later than the first anniversary of the day on which the former tenancy came to an end, the landlord may serve on the tenant, or the tenant may serve on the landlord, a notice in the prescribed form proposing terms of the statutory periodic tenancy different from the implied terms and, if the landlord or the tenant considers it appropriate, proposing an adjustment of the amount of the rent to take account of the proposed terms.

(3) Where a notice has been served under subsection (2) above,—

(a) within the period of three months beginning on the date on which the notice was served on him, the landlord or the tenant, as the case may be, may, by an application in the prescribed form, refer the notice to **[**[F11]the appropriate tribunal**]** under subsection (4) below; and

(b) if the notice is not so referred, then, with effect from such date, not falling within the period referred to in paragraph (a) above, as may be specified in the notice, the terms proposed in the notice shall become terms of the tenancy in substitution for any of the implied terms dealing with the same subject matter and the amount of the rent shall be varied in accordance with any adjustment so proposed.

(4) Where a notice under subsection (2) above is referred to **[**[F12]the appropriate tribunal**]**, the **[**[F13]appropriate tribunal**]** shall consider the terms proposed in the notice and shall determine whether those terms, or some other terms (dealing with the same subject matter as the proposed terms), are such as, in **[**[F14]the appropriate tribunal's**]** opinion, might reasonably be expected to be found in an assured periodic tenancy of the dwelling-house concerned, being a tenancy—

(a) which begins on the coming to an end of the former tenancy; and

(b) which is granted by a willing landlord on terms which, except in so far as they relate to the subject matter of the proposed terms, are those of the statutory periodic tenancy at the time of **[**[F14]the appropriate tribunal's**]** consideration.

(5) Whether or not a notice under subsection (2) above proposes an adjustment of the amount of the rent under the statutory periodic tenancy, where **[**[F15]the appropriate tribunal**]** determine any terms under subsection (4) above, they shall, if they consider it appropriate, specify such an adjustment to take account of the terms so determined.

(6) In making a determination under subsection (4) above, or specifying an adjustment of an amount of rent under subsection (5) above, there shall be disregarded any effect on the terms or the amount of the rent attributable to the granting of a tenancy to a sitting tenant.

(7) Where a notice under subsection (2) above is referred to **[**[F16]the appropriate tribunal**]**, then, unless the landlord and the tenant otherwise agree, with effect from such date as the **[**[F17]appropriate tribunal**]** may direct—

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(a) the terms determined by the **[**[F17]appropriate tribunal**]** shall become terms of the statutory periodic tenancy in substitution for any of the implied terms dealing with the same subject matter; and

(b) the amount of the rent under the statutory periodic tenancy shall be altered to accord with any adjustment specified by the **[**[F17]appropriate tribunal**]**;

but for the purposes of paragraph (b) above the **[**[F17]appropriate tribunal**]** shall not direct a date earlier than the date specified, in accordance with subsection (3)(b) above, in the notice referred to them.

(8) Nothing in this section requires **[**[F18]the appropriate tribunal**]** to continue with a determination under subsection (4) above if the landlord and tenant give notice in writing that they no longer require such a determination or if the tenancy has come to an end.

**Textual Amendments**

**F11** Words in s. 6(3)(a) substituted (1.7.2013) by The Transfer of Tribunal Functions Order 2013 (S.I. 2013/1036), art. 1, **Sch. 1 para. 81(a)** (with Sch. 3)

**F12** Words in s. 6(4) substituted (1.7.2013) by The Transfer of Tribunal Functions Order 2013 (S.I. 2013/1036), art. 1, **Sch. 1 para. 81(b)(i)** (with Sch. 3)

**F13** Words in s. 6(4) substituted (1.7.2013) by The Transfer of Tribunal Functions Order 2013 (S.I. 2013/1036), art. 1, **Sch. 1 para. 81(b)(ii)** (with Sch. 3)

**F14** Words in s. 6(4) substituted (1.7.2013) by The Transfer of Tribunal Functions Order 2013 (S.I. 2013/1036), art. 1, **Sch. 1 para. 81(b)(iii)** (with Sch. 3)

**F15** Words in s. 6(5) substituted (1.7.2013) by The Transfer of Tribunal Functions Order 2013 (S.I. 2013/1036), art. 1, **Sch. 1 para. 81(c)** (with Sch. 3)

**F16** Words in s. 6(7) substituted (1.7.2013) by The Transfer of Tribunal Functions Order 2013 (S.I. 2013/1036), art. 1, **Sch. 1 para. 81(d)(i)** (with Sch. 3)

**F17** Words in s. 6(7) substituted (1.7.2013) by The Transfer of Tribunal Functions Order 2013 (S.I. 2013/1036), art. 1, **Sch. 1 para. 81(d)(ii)** (with Sch. 3)

**F18** Words in s. 6(8) substituted (1.7.2013) by The Transfer of Tribunal Functions Order 2013 (S.I. 2013/1036), art. 1, **Sch. 1 para. 81(e)** (with Sch. 3)

## **[**[F19]**6A Demotion because of anti-social behaviour**

(1) This section applies to an assured tenancy if**[**[F20]—

(a) the landlord is a non-profit registered provider of social housing,

(b) the landlord is a profit-making registered provider of social housing and the dwelling-house let on the tenancy is social housing within the meaning of Part 2 of the Housing and Regeneration Act 2008, or

(c) **]**

the landlord is a registered social landlord.

(2) The landlord may apply to **[**[F21]the county court**]** for a demotion order.

(3) A demotion order has the following effect—

(a) the assured tenancy is terminated with effect from the date specified in the order;

(b) if the tenant remains in occupation of the dwelling-house after that date a demoted tenancy is created with effect from that date;

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(c) it is a term of the demoted tenancy that any arrears of rent payable at the termination of the assured tenancy become payable under the demoted tenancy;

(d) it is also a term of the demoted tenancy that any rent paid in advance or overpaid at the termination of the assured tenancy is credited to the tenant's liability to pay rent under the demoted tenancy.

(4) The court must not make a demotion order unless it is satisfied—

**[**[F22](a) that the tenant or a person residing in or visiting the dwelling-house has engaged or has threatened to engage in—

(i) conduct that is capable of causing nuisance or annoyance to some person (who need not be a particular identified person) and that directly or indirectly relates to or affects the landlord's housing management functions, or

(ii) conduct that consists of or involves using housing accommodation owned or managed by the landlord for an unlawful purpose, and**]**

(b) that it is reasonable to make the order.

(5) The court must not entertain proceedings for a demotion order unless—

(a) the landlord has served on the tenant a notice under subsection (6), or

(b) the court thinks it is just and equitable to dispense with the requirement of the notice.

(6) The notice must—

(a) give particulars of the conduct in respect of which the order is sought;

(b) state that the proceedings will not begin before the date specified in the notice;

(c) state that the proceedings will not begin after the end of the period of twelve months beginning with the date of service of the notice.

(7) The date specified for the purposes of subsection (6)(b) must not be before the end of the period of two weeks beginning with the date of service of the notice.

(8) Each of the following has effect in respect of a demoted tenancy at the time it is created by virtue of an order under this section as it has effect in relation to the assured tenancy at the time it is terminated by virtue of the order—

(a) the parties to the tenancy;

(b) the period of the tenancy;

(c) the amount of the rent;

(d) the dates on which the rent is payable.

(9) Subsection (8)(b) does not apply if the assured tenancy was for a fixed term and in such a case the demoted tenancy is a weekly periodic tenancy.

(10) If the landlord of the demoted tenancy serves on the tenant a statement of any other express terms of the assured tenancy which are to apply to the demoted tenancy such terms are also terms of the demoted tenancy.

[F23](10A) **[** In subsection (4)(a)(ii) "housing accommodation" includes—

(a) flats, lodging-houses and hostels;

(b) any yard, garden, outhouses and appurtenances belonging to the accommodation or usually enjoyed with it;

(c) any common areas used in connection with the accommodation.**]**

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(11) For the purposes of this section a demoted tenancy is a tenancy to which section 20B of the Housing Act 1988 applies.**]**

**Textual Amendments**

**F19** S. 6A inserted (30.6.2004 for E. and 30.4.2005 for W.) by Anti-Social Behaviour Act 2003 (c. 38), **s. 14(4)**; S.I. 2004/1502, **art. 2(a)(iii)** (with savings in Sch.); S.I. 2005/1225, **art. 2(b)**

**F20** Words in s. 6A(1) 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. 64** (with art. 6, Sch. 3)

**F21** Words in s. 6A(2) substituted (22.4.2014) by Crime and Courts Act 2013 (c. 22), s. 61(3), **Sch. 9 para. 52**; S.I. 2014/954, art. 2(c) (with art. 3) (with transitional provisions and savings in S.I. 2014/956, arts. 3-11)

**F22** S. 6A(4)(a) substituted (23.3.2015) by Anti-social Behaviour, Crime and Policing Act 2014 (c. 12), s. 185(1), **Sch. 11 para. 17(2)** (with ss. 21, 33, 42, 58, 75, 93); S.I. 2015/373, art. 4(f)(iv)

**F23** S. 6A(10A) inserted (23.3.2015) by Anti-social Behaviour, Crime and Policing Act 2014 (c. 12), s. 185(1), **Sch. 11 para. 17(3)** (with ss. 21, 33, 42, 58, 75, 93); S.I. 2015/373, art. 4(f)(iv)

## 7 Orders for possession.

(1) The court shall not make an order for possession of a dwelling-house let on an assured tenancy except on one or more of the grounds set out in Schedule 2 to this Act; but nothing in this Part of this Act relates to proceedings for possession of such a dwelling-house which are brought by a mortgagee, within the meaning of the [M2]Law of Property Act 1925, who has lent money on the security of the assured tenancy.

(2) The following provisions of this section have effect, subject to section 8 below, in relation to proceedings for the recovery of possession of a dwelling-house let on an assured tenancy.

(3) If the court is satisfied that any of the grounds in Part I of Schedule 2 to this Act is established then, subject to **[**[F24]subsections (5A) and (6)**][**[F25]and section 10A **]** below **[**[F26](and to any available defence based on the tenant's Convention rights, within the meaning of the Human Rights Act 1998)**]**, the court shall make an order for possession.

(4) If the court is satisfied that any of the grounds in Part II of Schedule 2 to this Act is established, then, subject to **[**[F27]subsections (5A) and (6)**]** below, the court may make an order for possession if it considers it reasonable to do so.

(5) Part III of Schedule 2 to this Act shall have effect for supplementing Ground 9 in that Schedule and Part IV of that Schedule shall have effect in relation to notices given as mentioned in Grounds 1 to 5 of that Schedule.

**[**[F28](5A) The court shall not make an order for possession of a dwellinghouse let on an assured periodic tenancy arising under Schedule 10 to the Local Government and Housing Act 1989 on any of the following grounds, that is to say,—

(a) Grounds 1, 2 **[**[F29], 5 **[**[F30], 7A and 7B **]]** in Part I of Schedule 2 to this Act;

(b) Ground 16 in Part II of that Schedule; and

(c) if the assured periodic tenancy arose on the termination of a former 1954 Act tenancy, within the meaning of the said Schedule 10, Ground 6 in Part I of Schedule 2 to this Act.**]**

(6) The court shall not make an order for possession of a dwelling-house to take effect at a time when it is let on an assured fixed term tenancy unless—

***Status:*** *Point in time view as at 28/08/2020.*
***Changes to legislation:*** *Housing Act 1988, Part I is up to date with all changes known to be in force on or before 14 June 2024. There are changes that may be brought into force at a future date. Changes that have been made appear in the content and are referenced with annotations. (See end of Document for details)*

(a) the ground for possession is Ground 2**[**[F31], Ground 7A**][**[F32] , Ground 7B**]** or Ground 8 in Part I of Schedule 2 to this Act or any of the grounds in Part II of that Schedule, other than Ground 9 or Ground 16; and

(b) the terms of the tenancy make provision for it to be brought to an end on the ground in question (whether that provision takes the form of a provision for re-entry, for forfeiture, for determination by notice or otherwise).

**[**[F33](6A) In the case of a dwelling-house in England, subsection (6)(a) has effect as if it also referred to Ground 7 in Part 1 of Schedule 2 to this Act.**]**

**[**[F34](6B) The requirement in subsection (6)(b) that would otherwise apply to an order for possession of a dwelling-house let on an assured fixed term tenancy does not apply where the ground for possession is Ground 7B in Part 1 of Schedule 2 to this Act.**]**

(7) Subject to the preceding provisions of this section, the court may make an order for possession of a dwelling-house on grounds relating to a fixed term tenancy which has come to an end; and where an order is made in such circumstances, any statutory periodic tenancy which has arisen on the ending of the fixed term tenancy shall end (without any notice and regardless of the period) **[**[F35]in accordance with section 5(1A)**]**.

**Textual Amendments**

**F24** Words substituted by Local Government and Housing Act 1989 (c. 42, SIF 75:1), s. 194, **Sch. 11 para. 101**

**F25** Words in s. 7(3) inserted (1.12.2016) by Immigration Act 2016 (c. 19), **ss. 41(3)(a)**, 94(1) (with s. 41(7)); S.I. 2016/1037, reg. 5(e)

**F26** Words in s. 7(3) inserted (20.10.2014 for E., 21.10.2014 for W.) by Anti-social Behaviour, Crime and Policing Act 2014 (c. 12), s. 185(1)(2)(c)(3)(c), **Sch. 11 para. 18(2)** (with ss. 21, 33, 42, 58, 75, 93); S.I. 2014/2590, art. 2(h); S.I. 2014/2830, art. 2(g)(x)

**F27** Words substituted by Local Government and Housing Act 1989 (c. 42, SIF 75:1), s. 194, **Sch. 11 para. 101(2)**

**F28** S. 7(5A) inserted by Local Government and Housing Act 1989 (c. 42, SIF 75:1), s. 194, **Sch. 11 para. 101(3)**

**F29** Words in s. 7(5A)(a) substituted (20.10.2014 for E., 21.10.2014 for W.) by Anti-social Behaviour, Crime and Policing Act 2014 (c. 12), s. 185(1)(2)(c)(3)(c), **Sch. 11 para. 18(3)** (with ss. 21, 33, 42, 58, 75, 93); S.I. 2014/2590, art. 2(h); S.I. 2014/2830, art. 2(g)(x)

**F30** Words in s. 7(5A)(a) substituted (1.12.2016) by Immigration Act 2016 (c. 19), **ss. 41(3)(b)**, 94(1) (with s. 41(7)); S.I. 2016/1037, reg. 5(e)

**F31** Words in s. 7(6)(a) inserted (20.10.2014 for E., 21.10.2014 for W.) by Anti-social Behaviour, Crime and Policing Act 2014 (c. 12), s. 185(1)(2)(c)(3)(c), **Sch. 11 para. 18(4)** (with ss. 21, 33, 42, 58, 75, 93); S.I. 2014/2590, art. 2(h); S.I. 2014/2830, art. 2(g)(x)

**F32** Words in s. 7(6)(a) inserted (1.12.2016) by Immigration Act 2016 (c. 19), **ss. 41(3)(c)**, 94(1) (with s. 41(7)); S.I. 2016/1037, reg. 5(e)

**F33** S. 7(6A) inserted (1.4.2012) by Localism Act 2011 (c. 20), **ss. 162(4)**, 240(2); S.I. 2012/628, art. 6(b) (with arts. 911141517)

**F34** S. 7(6B) inserted (1.12.2016) by Immigration Act 2016 (c. 19), **ss. 41(3)(d)**, 94(1) (with s. 41(7)); S.I. 2016/1037, reg. 5(e)

**F35** Words in s. 7(7) substituted (20.5.2009) by Housing and Regeneration Act 2008 (c. 17), ss. 299, 325, **Sch. 11 para. 7** (with Sch. 11 para. 14); S.I. 2009/1261, {arts. 2, 3}

**Marginal Citations**

**M2** 1925 c. 20.

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## 8 Notice of proceedings for possession.

(1) The court shall not entertain proceedings for possession of a dwelling-house let on an assured tenancy unless—

(a) the landlord or, in the case of joint landlords, at least one of them has served on the tenant a notice in accordance with this section and the proceedings are begun within the time limits stated in the notice in accordance with **[**[F36]subsections (3) to (4B)**]** below; or

(b) the court considers it just and equitable to dispense with the requirement of such a notice.

(2) The court shall not make an order for possession on any of the grounds in Schedule 2 to this Act unless that ground and particulars of it are specified in the notice under this section; but the grounds specified in such a notice may be altered or added to with the leave of the court.

(3) A notice under this section is one in the prescribed form informing the tenant that—

(a) the landlord intends to begin proceedings for possession of the dwelling-house on one or more of the grounds specified in the notice; and

(b) those proceedings will not begin earlier than a date specified in the notice **[**[F37]in accordance with **[**[F38]subsections (3A)**]** to (4B) below**]**; and

(c) those proceedings will not begin later than twelve months from the date of service of the notice.

**[**[F39](3A) If a notice under this section specifies in accordance with subsection (3)(a) Ground 7A in Schedule 2 to this Act (whether with or without other grounds), the date specified in the notice as mentioned in subsection (3)(b) is not to be earlier than—

(a) in the case of a **[**[F40]periodic tenancy,**]****[**[F40]periodic tenancy—

(i) three months after the date on which the notice was served, and

(ii)**]** the earliest date on which, apart from section 5(1), the tenancy could be brought to an end by a notice to quit given by the landlord on the same date as the date of service of the notice under this section;

(b) in the case of a fixed term tenancy, **[**[F41]one month**]****[**[F41]three months**]** after the date on which the notice was served.**]**

**[**[F42](4) If a notice under this section specifies in accordance with subsection (3)(a) above Ground 14 in Schedule 2 to this Act **[**[F43](whether without other grounds or with any ground other than Ground 7A)**]**, the date specified in the notice as mentioned in subsection (3)(b) above shall not be earlier than **[**[F44]three months after**]** the date of the service of the notice.

(4A) If a notice under this section specifies in accordance with subsection (3)(a) above, any of Grounds 1, 2, 5 to 7, 9 and 16 in Schedule 2 to this Act (whether without other grounds or with any ground other than Ground **[**[F45]7A or**]** 14), the date specified in the notice as mentioned in subsection (3)(b) above shall not be earlier than—

(a) **[**[F46]two months**]****[**[F46]"the relevant notice period" in relation to a dwelling-house in England and six months in relation to a dwelling-house in Wales**]** from the date of service of the notice; and

(b) if the tenancy is a periodic tenancy, the earliest date on which, apart from section 5(1) above, the tenancy could be brought to an end by a notice to quit given by the landlord on the same date as the date of service of the notice under this section.

***Status:*** *Point in time view as at 28/08/2020.*
***Changes to legislation:*** *Housing Act 1988, Part I is up to date with all changes known to be in force on or before 14 June 2024. There are changes that may be brought into force at a future date. Changes that have been made appear in the content and are referenced with annotations. (See end of Document for details)*

(4B) In any other case, the date specified in the notice as mentioned in subsection (3)(b) above shall not be earlier than the expiry of the period of **[**[F47]two weeks**][**[F47]"the relevant notice period" in relation to a dwelling-house in England and six months in relation to a dwelling-house in Wales**]** from the date of the service of the notice.**]**

**[**[F48](4BA) In subsections (4A) and (4B), "relevant notice period" means—

(a) where—

(i) any of Grounds 1 to 6, 9, 12, 13, 15 or 16 in Schedule 2 to this Act is specified in the notice, or

(ii) any of Grounds 8, 10 or 11 in Schedule 2 to this Act is specified in the notice and at the time the notice is served less than six months' rent is unpaid,

six months,

(b) where paragraph (a) does not apply and one or both of Grounds 7 and 7B in Schedule 2 to this Act is specified in the notice, three months,

(c) where paragraph (a) and (b) do not apply and any of Grounds 8, 10 or 11 in Schedule 2 to this Act are specified in the notice, four weeks, and

(d) where paragraphs (a), (b) and (c) do not apply and any of Grounds 14A, 14ZA or 17 in Schedule 2 to this Act is specified in the notice, two weeks.**]**

**[**[F49](4C) A notice under this section that specifies in accordance with subsection (3)(a) Ground 7A in Schedule 2 to this Act (whether with or without other grounds) must be served on the tenant within the time period specified in subsection (4D), (4E) or (4F).

(4D) Where the landlord proposes to rely on condition 1, 3 or 5 in Ground 7A, the notice must be served on the tenant within—

(a) the period of 12 months beginning with the day of the conviction, or

(b) if there is an appeal against the conviction, the period of 12 months beginning with the day on which the appeal is finally determined or abandoned.

(4E) Where the landlord proposes to rely on condition 2 in Ground 7A, the notice must be served on the tenant within—

(a) the period of 12 months beginning with the day on which the court has made the finding, or

(b) if there is an appeal against the finding, the period of 12 months beginning with the day on which the appeal is finally determined, abandoned or withdrawn.

(4F) Where the landlord proposes to rely on condition 4 in Ground 7A, the notice must be served on the tenant within—

(a) the period of 3 months beginning with the day on which the closure order was made, or

(b) if there is an appeal against the making of the order, the period of 3 months beginning with the day on which the appeal is finally determined, abandoned or withdrawn.**]**

(5) The court may not exercise the power conferred by subsection (1)(b) above if the landlord seeks to recover possession on Ground **[**[F50]7A **[**[F51], 7B**]** or**]** 8 in Schedule 2 to this Act.

(6) Where a notice under this section—

(a) is served at a time when the dwelling-house is let on a fixed term tenancy, or

(b) is served after a fixed term tenancy has come to an end but relates (in whole or in part) to events occurring during that tenancy,

the notice shall have effect notwithstanding that the tenant becomes or has become tenant under a statutory periodic tenancy arising on the coming to an end of the fixed term tenancy.

**Textual Amendments**

**F36** Words in s. 8(1)(a) substituted (28.2.1997) by 1996 c. 52, **s. 151(2)**; S.I. 1997/225, **art. 1** (with Sch.)

**F37** Words in s. 8(3)(b) substituted (28.2.1997) by 1996 c. 52, **s. 151(3)**; S.I. 1997/225, **art. 1** (with Sch.)

**F38** Words in s. 8(3)(b) substituted (20.10.2014 for E., 21.10.2014 for W.) by Anti-social Behaviour, Crime and Policing Act 2014 (c. 12), **ss. 97(2)(a)**, 185(1), (2)(c), (3)(a) (with ss. 21, 33, 42, 58, 75, 93); S.I. 2014/2590, art. 2(d) (with art. 5); S.I. 2014/2830, art. 2(d) (with art. 3)

**F39** S. 8(3A) inserted (20.10.2014 for E., 21.10.2014 for W.) by Anti-social Behaviour, Crime and Policing Act 2014 (c. 12), **ss. 97(2)(b)**, 185(1), (2)(c), (3)(a) (with ss. 21, 33, 42, 58, 75, 93); S.I. 2014/2590, art. 2(d) (with art. 5); S.I. 2014/2830, art. 2(d) (with art. 3)

**F40** Words in s. 8(3A)(a) substituted (temp.) (26.3.2020) by virtue of Coronavirus Act 2020 (c. 7), s. 87(1), Sch. 29 paras. 1, **6(a)(i)** (with ss. 88-90) (which affecting provision is suspended (E.) (28.8.2020) by The Coronavirus Act 2020 (Residential Tenancies: Protection from Eviction) (Amendment) (England) Regulations 2020 (S.I. 2020/914), regs. 1(2), **2(c)** (with reg. 4))

**F41** Words in s. 8(3A)(b) substituted (temp.) (26.3.2020) by virtue of Coronavirus Act 2020 (c. 7), s. 87(1), Sch. 29 paras. 1, **6(a)(ii)** (with ss. 88-90) (which affecting provision is suspended (E.) (28.8.2020) by The Coronavirus Act 2020 (Residential Tenancies: Protection from Eviction) (Amendment) (England) Regulations 2020 (S.I. 2020/914), regs. 1(2), **2(c)** (with reg. 4))

**F42** S. 8(4)-(4B) substituted for s. 8(4) (28.2.1997) by 1996 c. 52, **s. 151(4)**; S.I. 1997/225, **art. 2** (with Sch.)

**F43** Words in s. 8(4) substituted (20.10.2014 for E., 21.10.2014 for W.) by Anti-social Behaviour, Crime and Policing Act 2014 (c. 12), **ss. 97(2)(c)**, 185(1), (2)(c), (3)(a) (with ss. 21, 33, 42, 58, 75, 93); S.I. 2014/2590, art. 2(d) (with art. 5); S.I. 2014/2830, art. 2(d) (with art. 3)

**F44** Words in s. 8(4) inserted (temp.) (26.3.2020) by virtue of Coronavirus Act 2020 (c. 7), s. 87(1), Sch. 29 paras. 1, **6(b)** (with ss. 88-90) (which affecting provision is suspended (E.) (28.8.2020) by The Coronavirus Act 2020 (Residential Tenancies: Protection from Eviction) (Amendment) (England) Regulations 2020 (S.I. 2020/914), regs. 1(2), **2(c)** (with reg. 4))

**F45** Words in s. 8(4A) inserted (20.10.2014 for E., 21.10.2014 for W.) by Anti-social Behaviour, Crime and Policing Act 2014 (c. 12), **ss. 97(2)(d)**, 185(1), (2)(c), (3)(a) (with ss. 21, 33, 42, 58, 75, 93); S.I. 2014/2590, art. 2(d) (with art. 5); S.I. 2014/2830, art. 2(d) (with art. 3)

**F46** Words in s. 8(4A)(a) substituted (temp.) (26.3.2020) by virtue of Coronavirus Act 2020 (c. 7), s. 87(1), Sch. 29 paras. 1, **6(c)** (with ss. 88-90) (as amended (W.) (24.7.2020) by The Coronavirus Act 2020 (Assured Tenancies and Assured Shorthold Tenancies, Extension of Notice Periods) (Amendment) (Wales) Regulations 2020 (S.I. 2020/778), regs. 1(2), **2(2)** and as further amended (E.) (28.8.2020) by The Coronavirus Act 2020 (Residential Tenancies: Protection from Eviction) (Amendment) (England) Regulations 2020 (S.I. 2020/914), regs. 1(2), **3(2)(6)(a)** (with reg. 4))

**F47** Words in s. 8(4B) substituted (temp.) (26.3.2020) by virtue of Coronavirus Act 2020 (c. 7), s. 87(1), Sch. 29 paras. 1, **6(d)** (with ss. 88-90) (as amended (W.) (24.7.2020) by The Coronavirus Act 2020 (Assured Tenancies and Assured Shorthold Tenancies, Extension of Notice Periods) (Amendment) (Wales) Regulations 2020 (S.I. 2020/778), regs. 1(2), **2(2)** and as further amended (E.) (28.8.2020) by The Coronavirus Act 2020 (Residential Tenancies: Protection from Eviction) (Amendment) (England) Regulations 2020 (S.I. 2020/914), regs. 1(2), **3(2)(6)(c)** (with reg. 4))

**F48** S. 8(4BA) inserted (temp.) by virtue of Coronavirus Act 2020 (c. 7), Sch. 29 paras. 1, 6(e) (as inserted (28.8.2020) by The Coronavirus Act 2020 (Residential Tenancies: Protection from Eviction) (Amendment) (England) Regulations 2020 (S.I. 2020/914), regs. 1(2), **3(2)**(6)(d) (with reg. 4))

***Status:*** *Point in time view as at 28/08/2020.*
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**F49** S. 8(4C)-(4F) inserted (20.10.2014 for E., 21.10.2014 for W.) by Anti-social Behaviour, Crime and Policing Act 2014 (c. 12), **ss. 97(2)(e)**, 185(1), (2)(c), (3)(a) (with ss. 21, 33, 42, 58, 75, 93); S.I. 2014/2590, art. 2(d) (with art. 5); S.I. 2014/2830, art. 2(d) (with art. 3)

**F50** Words in s. 8(5) inserted (20.10.2014 for E., 21.10.2014 for W.) by Anti-social Behaviour, Crime and Policing Act 2014 (c. 12), **ss. 97(2)(f)**, 185(1), (2)(c), (3)(a) (with ss. 21, 33, 42, 58, 75, 93); S.I. 2014/2590, art. 2(d) (with art. 5); S.I. 2014/2830, art. 2(d) (with art. 3)

**F51** Word in s. 8(5) inserted (1.12.2016) by Immigration Act 2016 (c. 19), **ss. 41(4)**, 94(1) (with s. 41(7)); S.I. 2016/1037, reg. 5(e)

## [F52 8A Additional notice requirements: ground of domestic violence.

(1) Where the ground specified in a notice under section 8 (whether with or without other grounds) is Ground 14A in Schedule 2 to this Act and the partner who has left the dwelling-house as mentioned in that ground is not a tenant of the dwelling-house, the court shall not entertain proceedings for possession of the dwelling-house unless—

(a) the landlord or, in the case of joint landlords, at least one of them has served on the partner who has left a copy of the notice or has taken all reasonable steps to serve a copy of the notice on that partner, or

(b) the court considers it just and equitable to dispense with such requirements as to service.

(2) Where Ground 14A in Schedule 2 to this Act is added to a notice under section 8 with the leave of the court after proceedings for possession are begun and the partner who has left the dwelling-house as mentioned in that ground is not a party to the proceedings, the court shall not continue to entertain the proceedings unless—

(a) the landlord or, in the case of joint landlords, at least one of them has served a notice under subsection (3) below on the partner who has left or has taken all reasonable steps to serve such a notice on that partner, or

(b) the court considers it just and equitable to dispense with the requirement of such a notice.

(3) A notice under this subsection shall—

(a) state that proceedings for the possession of the dwelling-house have begun,

(b) specify the ground or grounds on which possession is being sought, and

(c) give particulars of the ground or grounds.]

**Textual Amendments**

**F52** S. 8A inserted (28.2.1997) by 1996 c. 52, **s. 150**; S.I. 1997/225, **art. 2** (with Sch.)

## 9 Extended discretion of court in possession claims.

(1) Subject to subsection (6) below, the court may adjourn for such period or periods as it thinks fit proceedings for possession of a dwelling-house let on an assured tenancy.

(2) On the making of an order for possession of a dwelling-house let on an assured tenancy or at any time before the execution of such an order, the court, subject to subsection (6) below, may—

(a) stay or suspend execution of the order, or

(b) postpone the date of possession,

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for such period or periods as the court thinks just.

(3) On any such adjournment as is referred to in subsection (1) above or on any such stay, suspension or postponement as is referred to in subsection (2) above, the court, unless it considers that to do so would cause exceptional hardship to the tenant or would otherwise be unreasonable, shall impose conditions with regard to payment by the tenant of arrears of rent (if any) and rent [F53]. . . and may impose such other conditions as it thinks fit.

(4) If any such conditions as are referred to in subsection (3) above are complied with, the court may, if it thinks fit, discharge or rescind any such order as is referred to in subsection (2) above.

(5) [F54]. . . . . .

(5A) [F54]. . . . . .

(6) This section does not apply if the court is satisfied that the landlord is entitled to possession of the dwelling-house—

(a) on any of the grounds in Part I of Schedule 2 to this Act; or

(b) by virtue of subsection (1) or subsection (4) of section 21 below.

**Textual Amendments**

**F53** Words in s. 9(3) omitted (20.5.2009) by virtue of and repealed (prosp.) by Housing and Regeneration Act 2008 (c. 17), ss. 299, 321(1), 325, **Sch. 11 para. 8(2)**, **Sch. 16** (with Sch. 11 para. 14); S.I. 2009/1261, {arts. 2, 3}

**F54** S. 9(5)(5A) omitted (20.5.2009) by virtue of and repealed (prosp.) by Housing and Regeneration Act 2008 (c. 17), ss. 299, 321(1), 325, **Sch. 11 para. 8(4)**, **Sch. 16** (with Sch. 11 para. 14); S.I. 2009/1261, {arts. 2, 3}

## [[F55]9A Proceedings for possession [[F56]on non-absolute grounds]: anti-social behaviour

(1) This section applies if the court is considering under section 7(4) whether it is reasonable to make an order for possession on ground 14 set out in Part 2 of Schedule 2 (conduct of tenant or other person).

(2) The court must consider, in particular—

(a) the effect that the nuisance or annoyance has had on persons other than the person against whom the order is sought;

(b) any continuing effect the nuisance or annoyance is likely to have on such persons;

(c) the effect that the nuisance or annoyance would be likely to have on such persons if the conduct is repeated.**]**

**Textual Amendments**

**F55** S. 9A inserted (30.6.2004 for E. and 30.9.2004 for W.) by Anti-Social Behaviour Act 2003 (c. 38), **s. 16(2)**; S.I. 2004/1502, **art. 2(a)(v)** (with Sch.) and S.I. 2004/2557, **art. 2(a)(iii)** (with Sch.)

**F56** Words in s. 9A heading inserted (20.10.2014 for E., 21.10.2014 for W.) by Anti-social Behaviour, Crime and Policing Act 2014 (c. 12), s. 185(1)(2)(c)(3)(c), **Sch. 11 para. 19** (with ss. 21, 33, 42, 58, 75, 93); S.I. 2014/2590, art. 2(h); S.I. 2014/2830, art. 2(g)(xi)

***Status:*** *Point in time view as at 28/08/2020.*
***Changes to legislation:*** *Housing Act 1988, Part I is up to date with all changes known to be in force on or before 14 June 2024. There are changes that may be brought into force at a future date. Changes that have been made appear in the content and are referenced with annotations. (See end of Document for details)*

**10 Special provisions applicable to shared accommodation.**

(1) This section applies in a case falling within subsection (1) of section 3 above and expressions used in this section have the same meaning as in that section.

(2) Without prejudice to the enforcement of any order made under subsection (3) below, while the tenant is in possession of the separate accommodation, no order shall be made for possession of any of the shared accommodation, whether on the application of the immediate landlord of the tenant or on the application of any person under whom that landlord derives title, unless a like order has been made, or is made at the same time, in respect of the separate accommodation; and the provisions of section 6 above shall have effect accordingly.

(3) On the application of the landlord, the court may make such order as it thinks just either—
   (a) terminating the right of the tenant to use the whole or any part of the shared accommodation other than living accommodation; or
   (b) modifying his right to use the whole or any part of the shared accommodation, whether by varying the persons or increasing the number of persons entitled to the use of that accommodation or otherwise.

(4) No order shall be made under subsection (3) above so as to effect any termination or modification of the rights of the tenant which, apart from section 3(3) above, could not be effected by or under the terms of the tenancy.

**[F57 10A Power to order transfer of tenancy in certain cases**

(1) This section applies on an application for an order for possession of a dwelling-house let on an assured tenancy if the court is satisfied that—
   (a) Ground 7B in Schedule 2 is established,
   (b) no other ground in that Schedule is established, or one or more grounds in Part 2 of that Schedule are established but it is not reasonable to make an order for possession on that ground or those grounds,
   (c) the tenancy is a joint tenancy, and
   (d) one or more of the tenants is a qualifying tenant.

(2) In subsection (1)(d) "qualifying tenant" means a person who (within the meaning of Ground 7B) is not disqualified as a result of the person's immigration status from occupying the dwelling-house under the tenancy.

(3) The court may, instead of making an order for possession, order that the tenant's interest under the tenancy is to be transferred so that it is held—
   (a) if there is one qualifying tenant, by the qualifying tenant as sole tenant, or
   (b) if there is more than one qualifying tenant, by all of them as joint tenants.

(4) The effect of an order under this section is that, from the time the order takes effect, the qualifying tenant or tenants—
   (a) are entitled to performance of the landlord's covenants under the tenancy, and
   (b) are liable to perform the tenant's covenants under the tenancy.

(5) The effect of an order under this section is that, from the time it takes effect, any other person who was a tenant under the tenancy before the order took effect—

***Status:*** *Point in time view as at 28/08/2020.*
***Changes to legislation:*** *Housing Act 1988, Part I is up to date with all changes known to be in force on or before 14 June 2024. There are changes that may be brought into force at a future date. Changes that have been made appear in the content and are referenced with annotations. (See end of Document for details)*

(a) ceases to be entitled to performance of the landlord's covenants under the tenancy, or

(b) ceases to be liable to perform the tenant's covenants under the tenancy.

(6) Subsection (5) does not remove any right or liability of the person which accrued before the order took effect.

(7) An order under this section does not operate to create a new tenancy as between the landlord and the qualifying tenant or tenants.

(8) In particular, if the tenancy is a fixed term tenancy, the term comes to an end at the same time as if the order had not been made.**]**

**Textual Amendments**

**F57** S. 10A inserted (1.12.2016) by Immigration Act 2016 (c. 19), **ss. 41(5)**, 94(1) (with s. 41(7)); S.I. 2016/1037, reg. 5(e)

### 11 Payment of removal expenses in certain cases.

(1) Where a court makes an order for possession of a dwelling-house let on an assured tenancy on Ground 6 or Ground 9 in Schedule 2 to this Act (but not on any other ground), the landlord shall pay to the tenant a sum equal to the reasonable expenses likely to be incurred by the tenant in removing from the dwelling-house.

(2) Any question as to the amount of the sum referred to in subsection (1) above shall be determined by agreement between the landlord and the tenant or, in default of agreement, by the court.

(3) Any sum payable to a tenant by virtue of this section shall be recoverable as a civil debt due from the landlord.

### 12 Compensation for misrepresentation or concealment.

Where a landlord obtains an order for possession of a dwelling-house let on an assured tenancy on one or more of the grounds in Schedule 2 to this Act and it is subsequently made to appear to the court that the order was obtained by misrepresentation or concealment of material facts, the court may order the landlord to pay to the former tenant such sum as appears sufficient as compensation for damage or loss sustained by that tenant as a result of the order.

*Rent and other terms*

### 13 Increases of rent under assured periodic tenancies.

(1) This section applies to—

(a) a statutory periodic tenancy other than one which, by virtue of paragraph 11 or paragraph 12 in Part I of Schedule 1 to this Act, cannot for the time being be an assured tenancy; and

(b) any other periodic tenancy which is an assured tenancy, other than one in relation to which there is a provision, for the time being binding on the tenant,

***Status:*** *Point in time view as at 28/08/2020.*
***Changes to legislation:*** *Housing Act 1988, Part I is up to date with all changes known to be in force on or before 14 June 2024. There are changes that may be brought into force at a future date. Changes that have been made appear in the content and are referenced with annotations. (See end of Document for details)*

under which the rent for a particular period of the tenancy will or may be greater than the rent for an earlier period.

(2) For the purpose of securing an increase in the rent under a tenancy to which this section applies, the landlord may serve on the tenant a notice in the prescribed form proposing a new rent to take effect at the beginning of a new period of the tenancy specified in the notice, being a period beginning not earlier than—

(a) the minimum period after the date of the service of the notice; and

(b) except in the case of a statutory periodic **[**[F58] tenancy—

(i) in the case of an assured agricultural occupancy, the first anniversary of the date on which the first period of the tenancy began;

(ii) in any other case, on the date that falls 52 weeks after the date on which the first period of the tenancy began; and**]**

(c) if the rent under the tenancy has previously been increased by virtue of a notice under this subsection or a determination under section 14 **[**[F59] below—

(i) in the case of an assured agricultural occupancy, the first anniversary of the date on which the increased rent took effect;

(ii) in any other case, the appropriate date**]**

(3) The minimum period referred to in subsection (2) above is—

(a) in the case of a yearly tenancy, six months;

(b) in the case of a tenancy where the period is less than a month, one month; and

(c) in any other case, a period equal to the period of the tenancy.

**[**[F60](3A) The appropriate date referred to in subsection (2)(c)(ii) above is—

(a) in a case to which subsection (3B) below applies, the date that falls 53 weeks after the date on which the increased rent took effect;

(b) in any other case, the date that falls 52 weeks after the date on which the increased rent took effect.

(3B) This subsection applies where—

(a) the rent under the tenancy has been increased by virtue of a notice under this section or a determination under section 14 below on at least one occasion after the coming into force of the Regulatory Reform (Assured Periodic Tenancies)(Rent Increases) Order 2003; and

(b) the fifty-third week after the date on which the last such increase took effect begins more than six days before the anniversary of the date on which the first such increase took effect.**]**

(4) Where a notice is served under subsection (2) above, a new rent specified in the notice shall take effect as mentioned in the notice unless, before the beginning of the new period specified in the notice,—

(a) the tenant by an application in the prescribed form refers the notice to **[**[F61]the appropriate tribunal**]**; or

(b) the landlord and the tenant agree on a variation of the rent which is different from that proposed in the notice or agree that the rent should not be varied.

(5) Nothing in this section (or in section 14 below) affects the right of the landlord and the tenant under an assured tenancy to vary by agreement any term of the tenancy (including a term relating to rent).

***Status:*** *Point in time view as at 28/08/2020.*
***Changes to legislation:*** *Housing Act 1988, Part I is up to date with all changes known to be in force on or before 14 June 2024. There are changes that may be brought into force at a future date. Changes that have been made appear in the content and are referenced with annotations. (See end of Document for details)*

**Textual Amendments**

**F58** Words in s. 13(2)(b) substituted (11.2.2003) by The Regulatory Reform (Assured Periodic Tenancies) (Rent Increases) Order 2003 (S.I. 2003/259), **art. 2(a)(i)**

**F59** Words in s. 13(2)(c) substituted (11.2.2003) by The Regulatory Reform (Assured Periodic Tenancies) (Rent Increases) Order 2003 (S.I. 2003/259), **art. 2(a)(ii)**

**F60** S. 13(3A)(3B) inserted (11.2.2003) by The Regulatory Reform (Assured Periodic Tenancies) (Rent Increases) Order 2003 (S.I. 2003/259), **art. 2(b)**

**F61** Words in s. 13(4)(a) substituted (1.7.2013) by The Transfer of Tribunal Functions Order 2013 (S.I. 2013/1036), art. 1, **Sch. 1 para. 82** (with Sch. 3)

## 14 Determination of rent by [F62tribunal].

(1) Where, under subsection (4)(a) of section 13 above, a tenant refers to **[**F63the appropriate tribunal**]** a notice under subsection (2) of that section, the **[**F64appropriate tribunal**]** shall determine the rent at which, subject to subsections (2) and (4) below, the **[**F64appropriate tribunal**]** consider that the dwelling-house concerned might reasonably be expected to be let in the open market by a willing landlord under an assured tenancy—

(a) which is a periodic tenancy having the same periods as those of the tenancy to which the notice relates;

(b) which begins at the beginning of the new period specified in the notice;

(c) the terms of which (other than relating to the amount of the rent) are the same as those of the tenancy to which the notice relates; and

(d) in respect of which the same notices, if any, have been given under any of Grounds 1 to 5 of Schedule 2 to this Act, as have been given (or have effect as if given) in relation to the tenancy to which the notice relates.

(2) In making a determination under this section, there shall be disregarded—

(a) any effect on the rent attributable to the granting of a tenancy to a sitting tenant;

(b) any increase in the value of the dwelling-house attributable to a relevant improvement carried out by a person who at the time it was carried out was the tenant, if the improvement—

(i) was carried out otherwise than in pursuance of an obligation to his immediate landlord, or

(ii) was carried out pursuant to an obligation to his immediate landlord being an obligation which did not relate to the specific improvement concerned but arose by reference to consent given to the carrying out of that improvement; and

(c) any reduction in the value of the dwelling-house attributable to a failure by the tenant to comply with any terms of the tenancy.

(3) For the purposes of subsection (2)(b) above, in relation to a notice which is referred by a tenant as mentioned in subsection (1) above, an improvement is a relevant improvement if either it was carried out during the tenancy to which the notice relates or the following conditions are satisfied, namely—

(a) that it was carried out not more than twenty-one years before the date of service of the notice; and

***Status:*** *Point in time view as at 28/08/2020.*
***Changes to legislation:*** *Housing Act 1988, Part I is up to date with all changes known to be in force on or before 14 June 2024. There are changes that may be brought into force at a future date. Changes that have been made appear in the content and are referenced with annotations. (See end of Document for details)*

(b) that, at all times during the period beginning when the improvement was carried out and ending on the date of service of the notice, the dwelling-house has been let under an assured tenancy; and

(c) that, on the coming to an end of an assured tenancy at any time during that period, the tenant (or, in the case of joint tenants, at least one of them) did not quit.

[F65][( 3A ) In making a determination under this section in any case where under Part I of the Local Government Finance Act 1992 the landlord or a superior landlord is liable to pay council tax in respect of a hereditament ( "the relevant hereditament") of which the dwelling-house forms part, the [[F66]appropriate tribunal] shall have regard to the amount of council tax which, as at the date on which the notice under section 13(2) above was served, was set by the billing authority—

(a) for the financial year in which that notice was served, and

(b) for the category of dwellings within which the relevant hereditament fell on that date,

but any discount or other reduction affecting the amount of council tax payable shall be disregarded.

(3B) In subsection (3A) above—

(a) "hereditament" means a dwelling within the meaning of Part I of the Local Government Finance Act 1992,

(b) "billing authority" has the same meaning as in that Part of that Act, and

(c) "category of dwellings" has the same meaning as in section 30(1) and (2) of that Act.]

(4) In this section "rent" does not include any service charge, within the meaning of section 18 of the [M3]Landlord and Tenant Act 1985, but, subject to that, includes any sums payable by the tenant to the landlord on account of the use of furniture [[F67], in respect of council tax] or for any of the matters referred to in subsection (1)(a) of that section, whether or not those sums are separate from the sums payable for the occupation of the dwelling-house concerned or are payable under separate agreements.

(5) Where any rates in respect of the dwelling-house concerned are borne by the landlord or a superior landlord, the [[F68]appropriate tribunal] shall make their determination under this section as if the rates were not so borne.

(6) In any case where—

(a) [[F69]the appropriate tribunal] have before them at the same time the reference of a notice under section 6(2) above relating to a tenancy (in this subsection referred to as "the section 6 reference") and the reference of a notice under section 13(2) above relating to the same tenancy (in this subsection referred to as "the section 13 reference"), and

(b) the date specified in the notice under section 6(2) above is not later than the first day of the new period specified in the notice under section 13(2) above, and

(c) the [[F70]appropriate tribunal] propose to hear the two references together,

the [[F70]appropriate tribunal] shall make a determination in relation to the section 6 reference before making their determination in relation to the section 13 reference and, accordingly, in such a case the reference in subsection(1)(c) above to the terms of the tenancy to which the notice relates shall be construed as a reference to those terms as varied by virtue of the determination made in relation to the section 6 reference.

(7) Where a notice under section 13(2) above has been referred to **[**[F71]the appropriate tribunal**]**, then, unless the landlord and the tenant otherwise agree, the rent determined by **[**[F72]the appropriate tribunal**]** (subject, in a case where subsection (5) above applies, to the addition of the appropriate amount in respect of rates) shall be the rent under the tenancy with effect from the beginning of the new period specified in the notice or, if it appears to **[**[F73]the appropriate tribunal**]** that that would cause undue hardship to the tenant, with effect from such later date (not being later than the date the rent is determined) as **[**[F72]the appropriate tribunal**]** may direct.

(8) Nothing in this section requires **[**[F74]the appropriate tribunal**]** to continue with their determination of a rent for a dwelling-house if the landlord and tenant give notice in writing that they no longer require such a determination or if the tenancy has come to an end.

**[**[F75](9) This section shall apply in relation to an assured shorthold tenancy as if in subsection (1) the reference to an assured tenancy were a reference to an assured shorthold tenancy.**]**

**Textual Amendments**

**F62** Word in s. 14 heading substituted (1.7.2013) by The Transfer of Tribunal Functions Order 2013 (S.I. 2013/1036), art. 1, **Sch. 1 para. 83(a)** (with Sch. 3)

**F63** Words in s. 14(1) substituted (1.7.2013) by The Transfer of Tribunal Functions Order 2013 (S.I. 2013/1036), art. 1, **Sch. 1 para. 83(b)(i)** (with Sch. 3)

**F64** Words in s. 14(1) substituted (1.7.2013) by The Transfer of Tribunal Functions Order 2013 (S.I. 2013/1036), art. 1, **Sch. 1 para. 83(b)(ii)** (with Sch. 3)

**F65** S. 14(3A)(3B) inserted (1.4.1993) by S.I. 1993/651, art. 2(1), **Sch. 1 para. 17(2)**

**F66** Words in s. 14(3A) substituted (1.7.2013) by The Transfer of Tribunal Functions Order 2013 (S.I. 2013/1036), art. 1, **Sch. 1 para. 83(c)** (with Sch. 3)

**F67** Words in s. 14(4) inserted (1.4.1993) by S.I. 1993/651, art. 2(1), **Sch. 1 para. 17(3)**

**F68** Words in s. 14(5) substituted (1.7.2013) by The Transfer of Tribunal Functions Order 2013 (S.I. 2013/1036), art. 1, **Sch. 1 para. 83(d)** (with Sch. 3)

**F69** Words in s. 14(6) substituted (1.7.2013) by The Transfer of Tribunal Functions Order 2013 (S.I. 2013/1036), art. 1, **Sch. 1 para. 83(e)(i)** (with Sch. 3)

**F70** Words in s. 14(6) substituted (1.7.2013) by The Transfer of Tribunal Functions Order 2013 (S.I. 2013/1036), art. 1, **Sch. 1 para. 83(e)(ii)** (with Sch. 3)

**F71** Words in s. 14(7) substituted (1.7.2013) by The Transfer of Tribunal Functions Order 2013 (S.I. 2013/1036), art. 1, **Sch. 1 para. 83(f)(i)** (with Sch. 3)

**F72** Words in s. 14(7) substituted (1.7.2013) by The Transfer of Tribunal Functions Order 2013 (S.I. 2013/1036), art. 1, **Sch. 1 para. 83(f)(ii)** (with Sch. 3)

**F73** Words in s. 14(7) substituted (1.7.2013) by The Transfer of Tribunal Functions Order 2013 (S.I. 2013/1036), art. 1, **Sch. 1 para. 83(f)(iii)** (with Sch. 3)

**F74** Words in s. 14(8) substituted (1.7.2013) by The Transfer of Tribunal Functions Order 2013 (S.I. 2013/1036), art. 1, **Sch. 1 para. 83(g)** (with Sch. 3)

**F75** S. 14(9) inserted (28.2.1997) by 1996 c. 52, s. 104, **Sch. 8 para. 2(2)**; S.I. 1997/225, **art. 2** (with Sch.)

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

**C12** S. 14(2)(4)(5) applied with modifications by Local Government and Housing Act 1989 (c. 42, SIF 75:1), s. 186, Sch. 10 paras. 6(4)(5), 7, 11(6), 12(2)(3), 21, **22**

**Marginal Citations**

**M3** 1985 c. 70.

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***Changes to legislation:*** *Housing Act 1988, Part I is up to date with all changes known to be in force on or before 14 June 2024. There are changes that may be brought into force at a future date. Changes that have been made appear in the content and are referenced with annotations. (See end of Document for details)*

## [F76 14A Interim increase before 1st April 1994 of rent under assured periodic tenancies in certain cases where landlord liable for council tax

(1) In any case where—

(a) under Part I of the Local Government Finance Act 1992 the landlord of a dwelling-house let under an assured tenancy to which section 13 above applies or a superior landlord is liable to pay council tax in respect of a dwelling (within the meaning of that Part of that Act) which includes that dwelling-house,

(b) under the terms of the tenancy (or an agreement collateral to the tenancy) the tenant is liable to make payments to the landlord in respect of council tax,

(c) the case falls within subsection (2) or subsection (3) below, and

(d) no previous notice under this subsection has been served in relation to the dwelling-house,

the landlord may serve on the tenant a notice in the prescribed form proposing an increased rent to take account of the tenant's liability to make payments to the landlord in respect of council tax, such increased rent to take effect at the beginning of a new period of the tenancy specified in the notice being a period beginning not earlier than one month after the date on which the notice was served.

(2) The case falls within this subsection if—

(a) the rent under the tenancy has previously been increased by virtue of a notice under section 13(2) above or a determination under section 14 above, and

(b) the first anniversary of the date on which the increased rent took effect has not yet occurred.

(3) The case falls within this subsection if a notice has been served under section 13(2) above before 1st April 1993 but no increased rent has taken effect before that date.

(4) No notice may be served under subsection (1) above after 31st March 1994.

(5) Where a notice is served under subsection (1) above, the new rent specified in the notice shall take effect as mentioned in the notice unless, before the beginning of the new period specified in the notice—

(a) the tenant by an application in the prescribed form refers the notice to **[**F77 the appropriate tribunal**]**, or

(b) the landlord and the tenant agree on a variation of the rent which is different from that proposed in the notice or agree that the rent should not be varied.

(6) Nothing in this section (or in section 14B below) affects the right of the landlord and the tenant under an assured tenancy to vary by agreement any term of the tenancy (including a term relating to rent).**]**

**Textual Amendments**

**F76** Ss. 14A, 14B inserted (1.4.1993) by S.I. 1993/651, art. 2(2), **Sch. 2 para. 8**

**F77** Words in s. 14A(5)(a) substituted (1.7.2013) by The Transfer of Tribunal Functions Order 2013 (S.I. 2013/1036), art. 1, **Sch. 1 para. 84** (with Sch. 3)

***Status:*** *Point in time view as at 28/08/2020.*
***Changes to legislation:*** *Housing Act 1988, Part I is up to date with all changes known to be in force on or before 14 June 2024. There are changes that may be brought into force at a future date. Changes that have been made appear in the content and are referenced with annotations. (See end of Document for details)*

## [F79]14B Interim determination of rent by [[F78]the appropriate tribunal]

(1) Where, under subsection (5)(a) of section 14A above, a tenant refers to **[**[F80]the appropriate tribunal**]** a notice under subsection (1) of that section, the **[**[F81]appropriate tribunal**]** shall determine the amount by which, having regard to the provisions of section 14(3A) above, the existing rent might reasonably be increased to take account of the tenant's liability to make payments to the landlord in respect of council tax.

(2) Where a notice under section 14A(1) above has been referred to **[**[F82]the appropriate tribunal**]**, then, unless the landlord and the tenant otherwise agree, the existing rent shall be increased by the amount determined by the **[**[F83]appropriate tribunal**]** with effect from the beginning of the new period specified in the notice or, if it appears to the **[**[F83]appropriate tribunal**]** that that would cause undue hardship to the tenant, with effect from such later date (not being later than the date the increase is determined) as the **[**[F83]appropriate tribunal**]** may direct.

(3) In any case where—

(a) **[**[F84]the appropriate tribunal**]** have before them at the same time the reference of a notice under section 13(2) above relating to a tenancy (in this subsection referred to as "the section 13 reference") and the reference of a notice under section 14A(1) above relating to the same tenancy (in this subsection referred to as "the section 14A reference"); and

(b) the **[**[F85]appropriate tribunal**]** propose to hear the two references together,

the **[**[F85]appropriate tribunal**]** shall make a determination in relation to the section 13 reference before making their determination in relation to the section 14A reference, and if in such a case the date specified in the notice under section 13(2) above is later than the date specified in the notice under section 14A(1) above, the rent determined under the section 14A reference shall not take effect until the date specified in the notice under section 13(2).

(4) In this section "rent" has the same meaning as in section 14 above; and section 14(4) above applies to a determination under this section as it applies to a determination under that section.

### Textual Amendments

**F78** Words in s. 14B heading substituted (1.7.2013) by The Transfer of Tribunal Functions Order 2013 (S.I. 2013/1036), art. 1, **Sch. 1 para. 85(a)** (with Sch. 3)

**F79** Ss. 14A, 14B inserted (1.4.1993) by S.I. 1993/651, art. 2(2), **Sch. 2 para. 8**

**F80** Words in s. 14B(1) substituted (1.7.2013) by The Transfer of Tribunal Functions Order 2013 (S.I. 2013/1036), art. 1, **Sch. 1 para. 85(b)(i)** (with Sch. 3)

**F81** Words in s. 14B(1) substituted (1.7.2013) by The Transfer of Tribunal Functions Order 2013 (S.I. 2013/1036), art. 1, **Sch. 1 para. 85(b)(ii)** (with Sch. 3)

**F82** Words in s. 14B(2) substituted (1.7.2013) by The Transfer of Tribunal Functions Order 2013 (S.I. 2013/1036), art. 1, **Sch. 1 para. 85(c)(i)** (with Sch. 3)

**F83** Words in s. 14B(2) substituted (1.7.2013) by The Transfer of Tribunal Functions Order 2013 (S.I. 2013/1036), art. 1, **Sch. 1 para. 85(c)(ii)** (with Sch. 3)

**F84** Words in s. 14B(3) substituted (1.7.2013) by The Transfer of Tribunal Functions Order 2013 (S.I. 2013/1036), art. 1, **Sch. 1 para. 85(d)(i)** (with Sch. 3)

**F85** Words in s. 14B(3) substituted (1.7.2013) by The Transfer of Tribunal Functions Order 2013 (S.I. 2013/1036), art. 1, **Sch. 1 para. 85(d)(ii)** (with Sch. 3)

***Status:*** *Point in time view as at 28/08/2020.*
***Changes to legislation:*** *Housing Act 1988, Part I is up to date with all changes known to be in force on or before 14 June 2024. There are changes that may be brought into force at a future date. Changes that have been made appear in the content and are referenced with annotations. (See end of Document for details)*

## 15 Limited prohibition on assignment etc. without consent.

(1) Subject to subsection (3) below, it shall be an implied term of every assured tenancy which is a periodic tenancy that, except with the consent of the landlord, the tenant shall not—

(a) assign the tenancy (in whole or in part); or

(b) sub-let or part with possession of the whole or any part of the dwelling-house let on the tenancy.

(2) Section 19 of the [M4]Landlord and Tenant Act 1927 (consents to assign not to be unreasonably withheld etc.) shall not apply to a term which is implied into an assured tenancy by subsection (1) above.

(3) In the case of a periodic tenancy which is not a statutory periodic tenancy **[**[F86]or an assured periodic tenancy arising under Schedule 10 to the Local Government and Housing Act 1989**]** subsection (1) above does not apply if—

(a) there is a provision (whether contained in the tenancy or not) under which the tenant is prohibited (whether absolutely or conditionally) from assigning or sub-letting or parting with possession or is permitted (whether absolutely or conditionally) to assign, sub-let or part with possession; or

(b) a premium is required to be paid on the grant or renewal of the tenancy.

(4) In subsection (3)(b) above "premium" includes—

(a) any fine or other like sum;

(b) any other pecuniary consideration in addition to rent; and

(c) any sum paid by way of deposit, other than one which does not exceed one-sixth of the annual rent payable under the tenancy immediately after the grant or renewal in question.

**Textual Amendments**

**F86** Words inserted by Local Government and Housing Act 1989 (c. 42, SIF 75:1), s. 194, **Sch. 11 para. 102**

**Marginal Citations**

**M4** 1927 c. 36.

## [[F87]15A Loss of assured tenancy status

(1) Subsection (2) applies if, in breach of an express or implied term of the tenancy, a tenant of a dwelling-house let under an assured tenancy to which this section applies—

(a) parts with possession of the dwelling-house, or

(b) sub-lets the whole of the dwelling-house (or sub-lets first part of it and then the remainder).

(2) The tenancy ceases to be an assured tenancy and cannot subsequently become an assured tenancy.

(3) This section applies to an assured tenancy—

(a) under which the landlord is a private registered provider of social housing or a registered social landlord, and

(b) which is not a shared ownership lease.

***Status:*** *Point in time view as at 28/08/2020.*
***Changes to legislation:*** *Housing Act 1988, Part I is up to date with all changes known to be in force on or before 14 June 2024. There are changes that may be brought into force at a future date. Changes that have been made appear in the content and are referenced with annotations. (See end of Document for details)*

(4) In this section "registered social landlord" has the same meaning as in Part 1 of the Housing Act 1996.

(5) In this section "shared ownership lease" means a lease of a dwelling-house—

(a) granted on payment of a premium calculated by reference to a percentage of the value of the dwelling-house or of the cost of providing it, or

(b) under which the lessee (or the lessee's personal representatives) will or may be entitled to a sum calculated by reference, directly or indirectly, to the value of the dwelling-house.**]**

**Textual Amendments**

**F87** S. 15A inserted (15.10.2013 for E., 5.11.2013 for W.) by Prevention of Social Housing Fraud Act 2013 (c. 3), **ss. 6**, 12; S.I. 2013/2622, art. 2; S.I. 2013/2861, art. 2

## 16 Access for repairs.

It shall be an implied term of every assured tenancy that the tenant shall afford to the landlord access to the dwelling-house let on the tenancy and all reasonable facilities for executing therein any repairs which the landlord is entitled to execute.

*Miscellaneous*

## 17 Succession to [F88assured tenancy].

(1) **[**F89Subject to subsection (1D),**]** In any case where—

(a) the sole tenant under an assured periodic tenancy dies, and

(b) immediately before the death, the tenant's spouse **[**F90or civil partner**]** was occupying the dwelling-house as his or her only or principal home, and

F91(c) . . . . . .

then, on the death, the tenancy vests by virtue of this section in the spouse **[**F90or civil partner**]** (and, accordingly, does not devolve under the tenant's will or intestacy).

**[**F92(1A) Subject to subsection (1D), in any case where—

(a) there is an assured periodic tenancy of a dwelling-house in England under which—

(i) the landlord is a private registered provider of social housing, and

(ii) the tenant is a sole tenant,

(b) the tenant under the tenancy dies,

(c) immediately before the death, the dwelling-house was not occupied by a spouse or civil partner of the tenant as his or her only or principal home,

(d) an express term of the tenancy makes provision for a person other than such a spouse or civil partner of the tenant to succeed to the tenancy, and

(e) there is a person whose succession is in accordance with that term,

then, on the death, the tenancy vests by virtue of this section in that person (and, accordingly, does not devolve under the tenant's will or intestacy).

(1B) Subject to subsection (1D), in any case where—

(a) there is an assured tenancy of a dwelling-house in England for a fixed term of not less than two years under which—
(i) the landlord is a private registered provider of social housing, and
(ii) the tenant is a sole tenant,
(b) the tenant under the tenancy dies, and
(c) immediately before the death, the tenant's spouse or civil partner was occupying the dwelling-house as his or her only or principal home,

then, on the death, the tenancy vests by virtue of this section in the spouse or civil partner (and, accordingly, does not devolve under the tenant's will or intestacy).

(1C) Subject to subsection (1D), in any case where—
(a) there is an assured tenancy of a dwelling-house in England for a fixed term of not less than two years under which—
(i) the landlord is a private registered provider of social housing, and
(ii) the tenant is a sole tenant,
(b) the tenant under the tenancy dies,
(c) immediately before the death, the dwelling-house was not occupied by a spouse or civil partner of the tenant as his or her only or principal home,
(d) an express term of the tenancy makes provision for a person other than such a spouse or civil partner of the tenant to succeed to the tenancy, and
(e) there is a person whose succession is in accordance with that term,

then, on the death, the tenancy vests by virtue of this section in that person (and accordingly does not devolve under the tenant's will or intestacy).

(1D) Subsection (1), (1A), (1B) or (1C) does not apply if the tenant was himself a successor as defined in subsection (2) or subsection (3).

(1E) In such a case, on the death, the tenancy vests by virtue of this section in a person ("P") (and, accordingly, does not devolve under the tenant's will or intestacy) if, and only if—
(a) (in a case within subsection (1)) the tenancy is of a dwelling-house in England under which the landlord is a private registered provider of social housing,
(b) an express term of the tenancy makes provision for a person to succeed a successor to the tenancy, and
(c) P's succession is in accordance with that term.**]**

(2) For the purposes of this section, a tenant is a successor in relation to a tenancy if—
(a) the tenancy became vested in him either by virtue of this section or under the will or intestacy of a previous tenant; or
(b) at some time before the tenant's death the tenancy was a joint tenancy held by himself and one or more other persons and, prior to his death, he became the sole tenant by survivorship; or
(c) he became entitled to the tenancy as mentioned in section 39(5) below.

(3) For the purposes of this section, a tenant is also a successor in relation to a tenancy (in this subsection referred to as "the new tenancy") which was granted to him (alone or jointly with others) if—
(a) at some time before the grant of the new tenancy, he was, by virtue of subsection (2) above, a successor in relation to an earlier tenancy of the same or substantially the same dwelling-house as is let under the new tenancy; and

(b) at all times since he became such a successor he has been a tenant (alone or jointly with others) of the dwelling-house which is let under the new tenancy or of a dwelling-house which is substantially the same as that dwelling-house.

**[**[F93](4) For the purposes of this section, a person who was living with the tenant as if they were a married couple or civil partners is to be treated as the tenant's spouse or civil partner.**]**

(5) If, on the death of the tenant, there is, by virtue of subsection (4) above, more than one person who fulfils the condition in subsection (1)(b) **[**[F94]or (1B)(c)**]** above, such one of them as may be decided by agreement or, in default of agreement, by the county court **[**[F95]shall for the purposes of this section be **[**[F96]treated as the tenant's spouse**][**[F97]or civil partner**].]**

**[**[F98](6) If, on the death of the tenant, there is more than one person in whom the tenancy would otherwise vest by virtue of subsection (1A), (1C) or (1E), the tenancy vests in such one of them as may be agreed between them or, in default of agreement, as is determined by the county court.

(7) This section does not apply to a fixed term assured tenancy that is a lease of a dwelling-house—

(a) granted on payment of a premium calculated by reference to a percentage of the value of the dwelling-house or of the cost of providing it, or

(b) under which the lessee (or the lessee's personal representatives) will or may be entitled to a sum calculated by reference, directly or indirectly, to the value of the dwelling-house.**]**

**Textual Amendments**

**F88** Words in s. 17 heading substituted (1.4.2012) by Localism Act 2011 (c. 20), **ss. 161(2)**, 240(2) (with s. 161(7)); S.I. 2012/628, art. 6(a) (with arts. 911141517)

**F89** Words in s. 17(1) inserted (1.4.2012) by Localism Act 2011 (c. 20), **ss. 161(3)(a)**, 240(2) (with s. 161(7)); S.I. 2012/628, art. 6(a) (with arts. 911141517)

**F90** Words in s. 17(1) inserted (5.12.2005) by Civil Partnership Act 2004 (c. 33), ss. 81, 263, **Sch. 8 para. 41(1)(2)**, S.I. 2005/3175, {art. 2(1)}, Sch. 1

**F91** S. 17(1)(c) repealed (1.4.2012) by Localism Act 2011 (c. 20), ss. 161(3)(b), 240(2), **Sch. 25 Pt. 23** (with s. 161(7)); S.I. 2012/628, art. 6(a) (with arts. 911141517)

**F92** S. 17(1A)-(1E) inserted (1.4.2012) by Localism Act 2011 (c. 20), **ss. 161(4)**, 240(2) (with s. 161(7)); S.I. 2012/628, art. 6(a) (with arts. 911141517)

**F93** S. 17(4) substituted (2.12.2019) by The Civil Partnership (Opposite-sex Couples) Regulations 2019 (S.I. 2019/1458), reg. 1(2), **Sch. 3 para. 12(2)(a)**

**F94** Words in s. 17(5) inserted (1.4.2012) by Localism Act 2011 (c. 20), **ss. 161(5)**, 240(2) (with s. 161(7)); S.I. 2012/628, art. 6(a) (with arts. 911141517)

**F95** Words in s. 17(5) substituted (5.12.2005) by Civil Partnership Act 2004 (c. 33), ss. 81, 263, **Sch. 8 para. 41(1)(4)**; S.I. 2005/3175, **art. 2(1)**, Sch. 1

**F96** Words in s. 17(5) substituted (13.3.2014) by The Marriage (Same Sex Couples) Act 2013 (Consequential and Contrary Provisions and Scotland) Order 2014 (S.I. 2014/560), art. 1(2), **Sch. 1 para. 20**

**F97** Words in s. 17(5) substituted (2.12.2019) by The Civil Partnership (Opposite-sex Couples) Regulations 2019 (S.I. 2019/1458), reg. 1(2), **Sch. 3 para. 12(2)(b)**

**F98** S. 17(6)(7) inserted (1.4.2012) by Localism Act 2011 (c. 20), **ss. 161(6)**, 240(2) (with s. 161(7)); S.I. 2012/628, art. 6(a) (with arts. 911141517)

***Status:*** *Point in time view as at 28/08/2020.*
***Changes to legislation:*** *Housing Act 1988, Part I is up to date with all changes known to be in force on or before 14 June 2024. There are changes that may be brought into force at a future date. Changes that have been made appear in the content and are referenced with annotations. (See end of Document for details)*

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

**C13** S. 17 extended (1.10.1997) by 1996 c. 27, ss. 53, 63(4), **Sch. 7 Pt. II para. 7(4)(6)**; S.I. 1997/1892, **art. 3**

## 18 Provisions as to reversions on assured tenancies.

(1) If at any time—

(a) a dwelling-house is for the time being lawfully let on an assured tenancy, and

(b) the landlord under the assured tenancy is himself a tenant under a superior tenancy; and

(c) the superior tenancy comes to an end,

then, subject to subsection (2) below, the assured tenancy shall continue in existence as a tenancy held of the person whose interest would, apart from the continuance of the assured tenancy, entitle him to actual possession of the dwelling-house at that time.

(2) Subsection (1) above does not apply to an assured tenancy if the interest which, by virtue of that subsection, would become that of the landlord, is such that, by virtue of Schedule 1 to this Act, the tenancy could not be an assured tenancy.

(3) Where, by virtue of any provision of this Part of this Act, an assured tenancy which is a periodic tenancy (including a statutory periodic tenancy) continues beyond the beginning of a reversionary tenancy which was granted (whether before, on or after the commencement of this Act) so as to begin on or after—

(a) the date on which the previous contractual assured tenancy came to an end, or

(b) a date on which, apart from any provision of this Part, the periodic tenancy could have been brought to an end by the landlord by notice to quit,

the reversionary tenancy shall have effect as if it had been granted subject to the periodic tenancy.

(4) The reference in subsection (3) above to the previous contractual assured tenancy applies only where the periodic tenancy referred to in that subsection is a statutory periodic tenancy and is a reference to the fixed-term tenancy which immediately preceded the statutory periodic tenancy.

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

**C14** S. 18(1) restricted (1.11.1993) by 1993 c. 28, s. 61, **Sch. 14 para. 3(2)(c)**; S.I. 1993/2134, **arts. 2**,5

## F99 19 Restriction on levy of distress for rent.

. . . . . .

**Textual Amendments**

**F99** S. 19 repealed (6.4.2014) by Tribunals, Courts and Enforcement Act 2007 (c. 15), s. 148, Sch. 14 para. 45, **Sch. 23 Pt. 4** (with s. 89); S.I. 2014/768, art. 2(1)(b)

***Status:*** *Point in time view as at 28/08/2020.*
***Changes to legislation:*** *Housing Act 1988, Part I is up to date with all changes known to be in force on or before 14 June 2024. There are changes that may be brought into force at a future date. Changes that have been made appear in the content and are referenced with annotations. (See end of Document for details)*

## CHAPTER II

## ASSURED SHORTHOLD TENANCIES

### [F100 19A Assured shorthold tenancies: post-Housing Act 1996 tenancies.

An assured tenancy which—

(a) is entered into on or after the day on which section 96 of the Housing Act 1996 comes into force (otherwise than pursuant to a contract made before that day), or

(b) comes into being by virtue of section 5 above on the coming to an end of an assured tenancy within paragraph (a) above,

is an assured shorthold tenancy unless it falls within any paragraph in Schedule 2A to this Act.**]**

**Textual Amendments**

**F100** S. 19A inserted (28.2.1997) by 1996 c. 52, **s. 96(1)**; S.I. 1997/225, **art. 2** (with Sch.)

### [F101 20 Assured shorthold tenancies: pre-Housing Act 1996 tenancies.

(1) Subject to subsection (3) below, an assured tenancy which is not one to which section 19A above applies is an assured shorthold tenancy if—

(a) it is a fixed term tenancy granted for a term certain of not less than six months,

(b) there is no power for the landlord to determine the tenancy at any time earlier than six months from the beginning of the tenancy; and

(c) a notice in respect of it is served as mentioned in subsection (2) below.**]**

(2) The notice referred to in subsection (1)(c) above is one which—

(a) is in such form as may be prescribed;

(b) is served before the assured tenancy is entered into;

(c) is served by the person who is to be the landlord under the assured tenancy on the person who is to be the tenant under that tenancy; and

(d) states that the assured tenancy to which it relates is to be a shorthold tenancy.

(3) Notwithstanding anything in subsection (1) above, where—

(a) immediately before a tenancy (in this subsection referred to as "the new tenancy") is granted, the person to whom it is granted or, as the case may be, at least one of the persons to whom it is granted was a tenant under an assured tenancy which was not a shorthold tenancy, and

(b) the new tenancy is granted by the person who, immediately before the beginning of the tenancy, was the landlord under the assured tenancy referred to in paragraph (a) above,

the new tenancy cannot be an assured shorthold tenancy.

(4) Subject to subsection (5) below, if, on the coming to an end of an assured shorthold tenancy (including a tenancy which was an assured shorthold but ceased to be assured before it came to an end), a new tenancy of the same or substantially the same premises comes into being under which the landlord and the tenant are the same as at the coming to an end of the earlier tenancy, then, if and so long as the new tenancy is an assured

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tenancy, it shall be an assured shorthold tenancy, whether or not it fulfils the conditions in paragraphs (a) to (c) of subsection (1) above.

(5) Subsection (4) above does not apply if, before the new tenancy is entered into (or, in the case of a statutory periodic tenancy, takes effect in possession), the landlord serves notice on the tenant that the new tenancy is not to be a shorthold tenancy.

**[**[F102](5A) Subsections (3) and (4) above do not apply where the new tenancy is one to which section 19A above applies**]**

(6) In the case of joint landlords—

(a) the reference in subsection (2)(c) above to the person who is to be the landlord is a reference to at least one of the persons who are to be joint landlords; and

(b) the reference in subsection (5) above to the landlord is a reference to at least one of the joint landlords.

[F103](7) . . . . . .

**Textual Amendments**

**F101** S. 20(1) and side-note substituted (28.2.1997) by 1996 c. 52, s. 104, **Sch. 8 para. 2(3)**; S.I. 1997/225, **art. 2** (with Sch.)

**F102** S. 20(5A) inserted (28.2.1997) by 1996 c. 52, s. 104, **Sch. 8 para. 2(4)**; S.I. 1997/225, **art. 2** (with Sch.)

**F103** S. 20(7) repealed (28.2.1997) by 1996 c. 52, s. 227, **Sch. 19 Pt. IV**; S.I. 1997/225, **art. 2** (with Sch.)

## **[**[F104]**20A Post-Housing Act 1996 tenancies: duty of landlord to provide statement as to terms of tenancy.**

(1) Subject to subsection (3) below, a tenant under an assured shorthold tenancy to which section 19A above applies may, by notice in writing, require the landlord under that tenancy to provide him with a written statement of any term of the tenancy which—

(a) falls within subsection (2) below, and

(b) is not evidenced in writing.

(2) The following terms of a tenancy fall within this subsection, namely—

(a) the date on which the tenancy began or, if it is a statutory periodic tenancy or a tenancy to which section 39(7) below applies, the date on which the tenancy came into being,

(b) the rent payable under the tenancy and the dates on which that rent is payable,

(c) any term providing for a review of the rent payable under the tenancy, and

(d) in the case of a fixed term tenancy, the length of the fixed term.

(3) No notice may be given under subsection (1) above in relation to a term of the tenancy if—

(a) the landlord under the tenancy has provided a statement of that term in response to an earlier notice under that subsection given by the tenant under the tenancy, and

(b) the term has not been varied since the provision of the statement referred to in paragraph (a) above.

(4) A landlord who fails, without reasonable excuse, to comply with a notice under subsection (1) above within the period of 28 days beginning with the date on which he received the notice is liable on summary conviction to a fine not exceeding level 4 on the standard scale.

(5) A statement provided for the purposes of subsection (1) above shall not be regarded as conclusive evidence of what was agreed by the parties to the tenancy in question.

(6) Where—

(a) a term of a statutory periodic tenancy is one which has effect by virtue of section 5(3)(e) above, or

(b) a term of a tenancy to which subsection (7) of section 39 below applies is one which has effect by virtue of subsection (6)(e) of that section,

subsection (1) above shall have effect in relation to it as if paragraph (b) related to the term of the tenancy from which it derives.

(7) In subsections (1) and (3) above—

(a) references to the tenant under the tenancy shall, in the case of joint tenants, be taken to be references to any of the tenants, and

(b) references to the landlord under the tenancy shall, in the case of joint landlords, be taken to be references to any of the landlords.**]**

**Textual Amendments**

**F104** S. 20A inserted (28.2.1997) by 1996 c. 52, **s. 97**; S.I. 1997/225, **art. 2** (with Sch.)

## **[F105 20B Demoted assured shorthold tenancies**

(1) An assured tenancy is an assured shorthold tenancy to which this section applies (a demoted assured shorthold tenancy) if—

(a) the tenancy is created by virtue of an order of the court under section 82A of the Housing Act 1985 or section 6A of this Act (a demotion order), and

(b) the landlord is **[F106** a private registered provider of social housing or**]** a registered social landlord.

(2) At the end of the period of one year starting with the day when the demotion order takes effect a demoted assured shorthold tenancy ceases to be an assured shorthold tenancy unless subsection (3) applies**[F107**, but see section 20C**]**.

(3) This subsection applies if before the end of the period mentioned in subsection (2) the landlord gives notice of proceedings for possession of the dwelling house.

(4) If subsection (3) applies the tenancy continues to be a demoted assured shorthold tenancy until the end of the period mentioned in subsection (2) or (if later) until one of the following occurs—

(a) the notice of proceedings for possession is withdrawn;

(b) the proceedings are determined in favour of the tenant;

(c) the period of six months beginning with the date on which the notice is given ends and no proceedings for possession have been brought.

(5) Registered social landlord has the same meaning as in Part 1 of the Housing Act 1996.**]**

***Status:*** *Point in time view as at 28/08/2020.*
***Changes to legislation:*** *Housing Act 1988, Part I is up to date with all changes known to be in force on or before 14 June 2024. There are changes that may be brought into force at a future date. Changes that have been made appear in the content and are referenced with annotations. (See end of Document for details)*

**Textual Amendments**

**F105** S. 20B inserted (30.6.2004 for E. and 30.4.2005 for W.) by Anti-Social Behaviour Act 2003 (c. 38), **ss. 15**, 93; S.I. 2004/1502, **art. 2(a)(iv)** (with savings in Sch.); S.I. 2005/1225, **art. 2(c)**

**F106** Words in s. 20B(1) 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. 65** (with art. 6, Sch. 3)

**F107** Words in s. 20B(2) inserted (1.4.2012) by Localism Act 2011 (c. 20), **ss. 163(1)**, 240(2); S.I. 2012/628, art. 6(c) (with arts. 911141517)

## [F108 20C Assured shorthold tenancies following demoted tenancies

(1) Subsection (2) applies if—

(a) section 20B applies to an assured shorthold tenancy of a dwelling-house in England ("the demoted tenancy"),

(b) the landlord is a private registered provider of social housing,

(c) the demoted tenancy was created by an order under section 6A made after the coming into force of section 163(2) of the Localism Act 2011,

(d) the assured tenancy that was terminated by that order was an assured shorthold tenancy that, whether or not it was a fixed term tenancy when terminated by the order, was granted for a term certain of not less than two years,

(e) apart from subsection (2), the demoted tenancy would cease to be an assured shorthold tenancy by virtue of section 20B(2) or (4), and

(f) the landlord has served a notice within subsection (3) on the tenant before the demoted tenancy ceases to be an assured shorthold tenancy by virtue of section 20B(2) or (4).

(2) The demoted tenancy does not cease to be an assured shorthold tenancy by virtue of section 20B(2) or (4), and at the time when it would otherwise cease to be an assured shorthold tenancy by virtue of section 20B(2) to (4)—

(a) it becomes an assured shorthold tenancy which is a fixed term tenancy for a term certain, and

(b) section 20B ceases to apply to it.

(3) The notice must—

(a) state that, on ceasing to be a demoted assured shorthold tenancy, the tenancy will become an assured shorthold tenancy which is a fixed term tenancy for a term certain of the length specified in the notice,

(b) specify a period of at least two years as the length of the term of the tenancy, and

(c) set out the other express terms of the tenancy.

(4) Where an assured shorthold tenancy becomes a fixed term tenancy by virtue of subsection (2)—

(a) the length of its term is that specified in the notice under subsection (3), and

(b) its other express terms are those set out in the notice.]

***Status:*** *Point in time view as at 28/08/2020.*
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**Textual Amendments**

**F108** S. 20C inserted (1.4.2012) by Localism Act 2011 (c. 20), **ss. 163(2)**, 240(2); S.I. 2012/628, art. 6(c) (with arts. 911141517)

### [F109 20D Assured shorthold tenancies following family intervention tenancies

(1) An assured tenancy that arises by virtue of a notice under paragraph 12ZA(2) of Schedule 1 in respect of a family intervention tenancy is an assured shorthold tenancy if—

(a) the landlord under the assured tenancy is a private registered provider of social housing,

(b) the dwelling-house is in England,

(c) the family intervention tenancy was granted to a person on the coming to an end of an assured shorthold tenancy under which the person was a tenant, and

(d) the notice states that the family intervention tenancy is to be regarded as an assured shorthold tenancy.

(2) This section does not apply if the family intervention tenancy was granted before the coming into force of section 163(3) of the Localism Act 2011.**]**

**Textual Amendments**

**F109** S. 20D inserted (1.4.2012) by Localism Act 2011 (c. 20), **ss. 163(3)**, 240(2); S.I. 2012/628, art. 6(c) (with arts. 911141517)

### 21 Recovery of possession on expiry or termination of assured shorthold tenancy.

(1) Without prejudice to any right of the landlord under an assured shorthold tenancy to recover possession of the dwelling-house let on the tenancy in accordance with Chapter I above, on or after the coming to an end of an assured shorthold tenancy which was a fixed term tenancy, a court shall make an order for possession of the dwelling-house if it is satisfied—

(a) that the assured shorthold tenancy has come to an end and no further assured tenancy (whether shorthold or not) is for the time being in existence, other than **[**F110an assured shorthold periodic tenancy (whether statutory or not)**]**; and

(b) the landlord or, in the case of joint landlords, at least one of them has given to the tenant not less than **[**F111two months'**][**F111six months'**]** notice **[**F112in writing**]** stating that he requires possession of the dwelling-house.

**[**F113(1A) Subsection (1B) applies to an assured shorthold tenancy of a dwelling-house in England if—

(a) it is a fixed term tenancy for a term certain of not less than two years, and

(b) the landlord is a private registered provider of social housing.

(1B) The court may not make an order for possession of the dwelling-house let on the tenancy unless the landlord has given to the tenant not less than six months' notice in writing—

(a) stating that the landlord does not propose to grant another tenancy on the expiry of the fixed term tenancy, and

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(b) informing the tenant of how to obtain help or advice about the notice and, in particular, of any obligation of the landlord to provide help or advice.**]**

(2) A notice under paragraph (b) of subsection (1) above may be given before or on the day on which the tenancy comes to an end; and that subsection shall have effect notwithstanding that on the coming to an end of the fixed term tenancy a statutory periodic tenancy arises.

(3) Where a court makes an order for possession of a dwelling-house by virtue of subsection (1) above, any statutory periodic tenancy which has arisen on the coming to an end of the assured shorthold tenancy shall end (without further notice and regardless of the period) **[**[F114]in accordance with section 5(1A)**]**.

(4) Without prejudice to any such right as is referred to in subsection (1) above, a court shall make an order for possession of a dwelling-house let on an assured shorthold tenancy which is a periodic tenancy if the court is satisfied—

(a) that the landlord or, in the case of joint landlords, at least one of them has given to the tenant a notice **[**[F115]in writing**]** stating that, after a date specified in the notice, being the last day of a period of the tenancy and not earlier than **[**[F116]two months**][**[F116]six months**]** after the date the notice was given, possession of the dwelling-house is required by virtue of this section; and

(b) that the date specified in the notice under paragraph (a) above is not earlier than the earliest day on which, apart from section 5(1) above, the tenancy could be brought to an end by a notice to quit given by the landlord on the same date as the notice under paragraph (a) above.

**[**[F117](4ZA) In the case of a dwelling-house in England, subsection (4)(a) above has effect with the omission of the requirement for the date specified in the notice to be the last day of a period of the tenancy.**]**

**[**[F118](4A) Where a court makes an order for possession of a dwelling-house by virtue of subsection (4) above, the assured shorthold tenancy shall end in accordance with section 5(1A).**]**

**[**[F119](4B) A notice under subsection (1) or (4) may not be given in relation to an assured shorthold tenancy of a dwelling-house in England—

(a) in the case of a tenancy which is not a replacement tenancy, within the period of four months beginning with the day on which the tenancy began, and

(b) in the case of a replacement tenancy, within the period of four months beginning with the day on which the original tenancy began.

(4C) Subsection (4B) does not apply where the tenancy has arisen due to section 5(2).

(4D) Subject to subsection (4E), proceedings for an order for possession under this section in relation to a dwelling-house in England may not be begun after the end of the period of **[**[F120]six months**][**[F120]10 months**]** beginning with the date on which the notice was given under subsection (1) or (4).

(4E) Where—

(a) a notice under subsection (4) has been given in relation to a dwelling-house in England, and

(b) paragraph (b) of that subsection requires the date specified in the notice to be more than **[**[F121]two months**][**[F121]six months**]** after the date the notice was given,

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proceedings for an order for possession under this section may not be begun after the end of the period of four months beginning with the date specified in the notice.**]**

**[**[F122](5) Where an order for possession under subsection (1) or (4) above is made in relation to a dwelling-house let on a tenancy to which section 19A above applies, the order may not be made so as to take effect earlier than—

(a) in the case of a tenancy which is not a replacement tenancy, six months after the beginning of the tenancy, and

(b) in the case of a replacement tenancy, six months after the beginning of the original tenancy.

[F123](5A) **[** Subsection (5) above does not apply to an assured shorthold tenancy to which section 20B (demoted assured shorthold tenancies) applies.**]**

(6) In **[**[F124]subsections (4B)(b) and**]** (5)(b) above, the reference to the original tenancy is—

(a) where the replacement tenancy came into being on the coming to an end of a tenancy which was not a replacement tenancy, to the immediately preceding tenancy, and

(b) where there have been successive replacement tenancies, to the tenancy immediately preceding the first in the succession of replacement tenancies.

(7) For the purposes of this section, a replacement tenancy is a tenancy—

(a) which comes into being on the coming to an end of an assured shorthold tenancy, and

(b) under which, on its coming into being—

(i) the landlord and tenant are the same as under the earlier tenancy as at its coming to an end, and

(ii) the premises let are the same or substantially the same as those let under the earlier tenancy as at that time.**]**

**[**[F125](8) The Secretary of State may by regulations made by statutory instrument prescribe the form of a notice under subsection (1) or (4) given in relation to an assured shorthold tenancy of a dwelling-house in England.

(9) A statutory instrument containing regulations made under subsection (8) is subject to annulment in pursuance of a resolution of either House of Parliament.**]**

**Textual Amendments**

**F110** Words inserted by Local Government and Housing Act 1989 (c. 42, SIF 75:1), s. 194, **Sch. 11 para. 103**

**F111** Words in s. 21(1)(b) substituted (temp.) (26.3.2020) by virtue of Coronavirus Act 2020 (c. 7), s. 87(1), Sch. 29 paras. 1, **7(a)** (with ss. 88-90) (as amended (W.) (24.7.2020) by The Coronavirus Act 2020 (Assured Tenancies and Assured Shorthold Tenancies, Extension of Notice Periods) (Amendment) (Wales) Regulations 2020 (S.I. 2020/778), regs. 1(2), **2(3)(a)** and as further amended (E.) (28.8.2020) by The Coronavirus Act 2020 (Residential Tenancies: Protection from Eviction) (Amendment) (England) Regulations 2020 (S.I. 2020/914), regs. 1(2), **3(2)(7)(a)** (with reg. 4))

**F112** Words in s. 21(1)(b) inserted (28.2.1997) by 1996 c. 52, **s. 98(2)**; S.I. 1997/225, **art. 2** (subject to saving in Sch. para. 2)

**F113** S. 21(1A)(1B) inserted (1.4.2012) by Localism Act 2011 (c. 20), **ss. 164(1)**, 240(2) (with s. 164(2)); S.I. 2012/628, art. 6(c) (with arts. 911141517)

**F114** Words in s. 21(3) substituted (20.5.2009) by Housing and Regeneration Act 2008 (c. 17), ss. 299, 325, **Sch. 11 para. 9(2)** (with Sch. 11 para. 14); S.I. 2009/1261, arts. 2, **3**

**F115** Words in s. 21(4)(a) inserted (28.2.1997) by 1996 c. 52, **s. 98(3)**; S.I. 1997/225, **art. 2** (subject to saving Sch. para. 2)

**F116** Words in s. 21(4)(a) substituted (temp.) (26.3.2020) by virtue of Coronavirus Act 2020 (c. 7), s. 87(1), Sch. 29 paras. 1, **7(b)** (with ss. 88-90) (as amended (W.) (24.7.2020) by The Coronavirus Act 2020 (Assured Tenancies and Assured Shorthold Tenancies, Extension of Notice Periods) (Amendment) (Wales) Regulations 2020 (S.I. 2020/778), regs. 1(2), **2(3)(b)** and as further amended (E.) (28.8.2020) by The Coronavirus Act 2020 (Residential Tenancies: Protection from Eviction) (Amendment) (England) Regulations 2020 (S.I. 2020/914), regs. 1(2), **3(2)(7)(a)** (with reg. 4))

**F117** S. 21(4ZA) inserted (1.10.2015) by Deregulation Act 2015 (c. 20), **ss. 35**, 115(7) (with s. 41); S.I. 2015/994, art. 11(i)

**F118** S. 21(4A) inserted (20.5.2009) by Housing and Regeneration Act 2008 (c. 17), ss. 299, 325, **Sch. 11 para. 9(3)** (with Sch. 11 para. 14); S.I. 2009/1261, arts. 2, **3**

**F119** S. 21(4B)-(4E) inserted (1.10.2015) by Deregulation Act 2015 (c. 20), **ss. 36(2)**, 115(7) (with s. 41); S.I. 2015/994, art. 11(j)

**F120** Words in s. 21(4D) substituted (temp.) by virtue of Coronavirus Act 2020 (c. 7), Sch. 29 paras. 1, **7(ba)** (as inserted (E.) (28.8.2020) by S.I. 2020/914, regs. 1(2), **3(2)(7)(b)** (with reg. 4))

**F121** Words in s. 21(4E)(b) substituted (temp.) (26.3.2020) by virtue of Coronavirus Act 2020 (c. 7), s. 87(1), Sch. 29 paras. 1, **7(c)** (with ss. 88-90) (as amended (28.8.2020) by The Coronavirus Act 2020 (Residential Tenancies: Protection from Eviction) (Amendment) (England) Regulations 2020 (S.I. 2020/914), regs. 1(2), **3(2)(7)(c)** (with reg. 4))

**F122** S. 21(5)-(7) inserted (28.2.1997) by 1996 c. 52, **s. 99**; S.I. 1997/225, **art. 2** (with Sch.)

**F123** S. 21(5A) inserted (30.6.2004 for E. and 30.4.2005 for W.) by Anti-Social Behaviour Act 2003 (c. 38), **ss. 15(2)**, 93; S.I. 2004/1502, **art. 2(a)(iv)** (with savings in Sch.); S.I. 2005/1225, **art. 2(c)**

**F124** Words in s. 21(6) substituted (1.10.2015) by Deregulation Act 2015 (c. 20), **ss. 36(3)**, 115(7) (with s. 41); S.I. 2015/994, art. 11(j)

**F125** S. 21(8)(9) inserted (1.7.2015) by Deregulation Act 2015 (c. 20), **ss. 37**, 115(7) (with s. 41); S.I. 2015/994, art. 10(a)

## [F126 21A Compliance with prescribed legal requirements

(1) A notice under subsection (1) or (4) of section 21 may not be given in relation to an assured shorthold tenancy of a dwelling-house in England at a time when the landlord is in breach of a prescribed requirement.

(2) The requirements that may be prescribed are requirements imposed on landlords by any enactment and which relate to—
  (a) the condition of dwelling-houses or their common parts,
  (b) the health and safety of occupiers of dwelling-houses, or
  (c) the energy performance of dwelling-houses.

(3) In subsection (2) " enactment " includes an enactment contained in subordinate legislation within the meaning of the Interpretation Act 1978.

(4) For the purposes of subsection (2)(a) " common parts " has the same meaning as in Ground 13 in Part 2 of Schedule 2.

(5) A statutory instrument containing regulations made under this section is subject to annulment in pursuance of a resolution of either House of Parliament.]

***Status:*** *Point in time view as at 28/08/2020.*
***Changes to legislation:*** *Housing Act 1988, Part I is up to date with all changes known to be in force on or before 14 June 2024. There are changes that may be brought into force at a future date. Changes that have been made appear in the content and are referenced with annotations. (See end of Document for details)*

**Textual Amendments**

**F126** S. 21A inserted (1.7.2015 for specified purposes, 1.10.2015 in so far as not already in force) by Deregulation Act 2015 (c. 20), **ss. 38**, 115(7) (with s. 41); S.I. 2015/994, arts. 10(b), 11(k)

## [F127 21B Requirement for landlord to provide prescribed information

(1) The Secretary of State may by regulations require information about the rights and responsibilities of a landlord and a tenant under an assured shorthold tenancy of a dwelling-house in England (or any related matters) to be given by a landlord under such a tenancy, or a person acting on behalf of such a landlord, to the tenant under such a tenancy.

(2) Regulations under subsection (1) may—

(a) require the information to be given in the form of a document produced by the Secretary of State or another person,

(b) provide that the document to be given is the version that has effect at the time the requirement applies, and

(c) specify cases where the requirement does not apply.

(3) A notice under subsection (1) or (4) of section 21 may not be given in relation to an assured shorthold tenancy of a dwelling-house in England at a time when the landlord is in breach of a requirement imposed by regulations under subsection (1).

(4) A statutory instrument containing regulations made under subsection (1) is subject to annulment in pursuance of a resolution of either House of Parliament.**]**

**Textual Amendments**

**F127** S. 21B inserted (1.7.2015 for specified purposes, 1.10.2015 in so far as not already in force) by Deregulation Act 2015 (c. 20), **ss. 39**, 115(7) (with s. 41); S.I. 2015/994, arts. 10(c), 11(l)

## [F128 21C Repayment of rent where tenancy ends before end of a period

(1) A tenant under an assured shorthold tenancy of a dwelling-house in England is entitled to a repayment of rent from the landlord where—

(a) as a result of the service of a notice under section 21 the tenancy is brought to an end before the end of a period of the tenancy,

(b) the tenant has paid rent in advance for that period, and

(c) the tenant was not in occupation of the dwelling-house for one or more whole days of that period.

(2) The amount of repayment to which a tenant is entitled under subsection (1) is to be calculated in accordance with the following formula—

$$R \times D\ P$$

where—

R is the rent paid for the final period;

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D is the number of whole days of the final period for which the tenant was not in occupation of the dwelling-house; and

P is the number of whole days in that period.

(3) If the repayment of rent described in subsections (1) and (2) has not been made when the court makes an order for possession under section 21, the court must order the landlord to repay the amount of rent to which the tenant is entitled.

(4) Nothing in this section affects any other right of the tenant to a repayment of rent from the landlord.**]**

**Textual Amendments**

**F128** S. 21C inserted (1.10.2015) by Deregulation Act 2015 (c. 20), **ss. 40**, 115(7) (with s. 41); S.I. 2015/994, art. 11(m)

## 22 Reference of excessive rents to [F129appropriate tribunal].

(1) Subject to section 23 and subsection (2) below, the tenant under an assured shorthold tenancy F130. . . may make an application in the prescribed form to **[**F131the appropriate tribunal**]** for a determination of the rent which, in **[**F132the appropriate tribunal's**]** opinion, the landlord might reasonably be expected to obtain under the assured shorthold tenancy.

(2) No application may be made under this section if—

(a) the rent payable under the tenancy is a rent previously determined under this section; F133. . .

**[**F134(aa) the tenancy is one to which section 19A above applies and more than six months have elapsed since the beginning of the tenancy or, in the case of a replacement tenancy, since the beginning of the original tenancy; or**]**

(b) the tenancy is an assured shorthold tenancy falling within subsection (4) of section 20 above (and, accordingly, is one in respect of which notice need not have been served as mentioned in subsection (2) of that section).

(3) Where an application is made to **[**F135the appropriate tribunal**]** under subsection (1) above with respect to the rent under an assured shorthold tenancy, **[**F136the appropriate tribunal**]** shall not make such a determination as is referred to in that subsection unless they consider—

(a) that there is a sufficient number of similar dwelling-houses in the locality let on assured tenancies (whether shorthold or not); and

(b) that the rent payable under the assured shorthold tenancy in question is significantly higher than the rent which the landlord might reasonably be expected to be able to obtain under the tenancy, having regard to the level of rents payable under the tenancies referred to in paragraph (a) above.

(4) Where, on an application under this section, **[**F137the appropriate tribunal**]** make a determination of a rent for an assured shorthold tenancy—

(a) the determination shall have effect from such date as **[**F138the appropriate tribunal**]** may direct, not being earlier than the date of the application;

(b) if, at any time on or after the determination takes effect, the rent which, apart from this paragraph, would be payable under the tenancy exceeds the rent so determined, the excess shall be irrecoverable from the tenant; and

(c) no notice may be served under section 13(2) above with respect to a tenancy of the dwelling-house in question until after the first anniversary of the date on which the determination takes effect.

(5) Subsections (4), (5) and (8) of section 14 above apply in relation to a determination of rent under this section as they apply in relation to a determination under that section and, accordingly, where subsection (5) of that section applies, any reference in subsection (4)(b) above to rent is a reference to rent exclusive of the amount attributable to rates.

**[**[F139](5A) Where—

(a) an assured tenancy ceases to be an assured shorthold tenancy by virtue of falling within paragraph 2 of Schedule 2A to this Act, and

(b) at the time when it so ceases to be an assured shorthold tenancy there is pending before **[**[F140]the appropriate tribunal**]** an application in relation to it under this section,

the fact that it so ceases to be an assured shorthold tenancy shall, in relation to that application, be disregarded for the purposes of this section.**]**

**[**[F141](6) In subsection (2)(aa) above, the references to the original tenancy and to a replacement tenancy shall be construed in accordance with subsections (6) and (7) respectively of section 21 above.**]**

**Textual Amendments**

**F129** Words in s. 22 substituted (1.7.2013) by The Transfer of Tribunal Functions Order 2013 (S.I. 2013/1036), art. 1, **Sch. 1 para. 86(a)** (with Sch. 3)

**F130** Words in s. 22(1) repealed (28.2.1997) by 1996 c. 52, ss. 104, 227, Sch. 8 para. 2(5), **Sch. 19 Pt. IV**; S.I. 1997/225, **art. 2** (with Sch.)

**F131** Words in s. 22(1) substituted (1.7.2013) by The Transfer of Tribunal Functions Order 2013 (S.I. 2013/1036), art. 1, **Sch. 1 para. 86(b)(i)** (with Sch. 3)

**F132** Words in s. 22(1) substituted (1.7.2013) by The Transfer of Tribunal Functions Order 2013 (S.I. 2013/1036), art. 1, **Sch. 1 para. 86(b)(ii)** (with Sch. 3)

**F133** Word in s. 22(2)(a) repealed (28.2.1997) by 1996 c. 52, s. 227, **Sch. 19 Pt. IV**; S.I. 1997/225, **art. 2**

**F134** S. 22(2)(aa) inserted (28.2.1997) by 1996 c. 52, **s. 100(2)**; S.I. 1997/225, **art. 2** (with Sch.)

**F135** Words in s. 22(3) substituted (1.7.2013) by The Transfer of Tribunal Functions Order 2013 (S.I. 2013/1036), art. 1, **Sch. 1 para. 86(c)(i)** (with Sch. 3)

**F136** Words in s. 22(3) substituted (1.7.2013) by The Transfer of Tribunal Functions Order 2013 (S.I. 2013/1036), art. 1, **Sch. 1 para. 86(c)(ii)** (with Sch. 3)

**F137** Words in s. 22(4) substituted (1.7.2013) by The Transfer of Tribunal Functions Order 2013 (S.I. 2013/1036), art. 1, **Sch. 1 para. 86(d)(i)** (with Sch. 3)

**F138** Words in s. 22(4) substituted (1.7.2013) by The Transfer of Tribunal Functions Order 2013 (S.I. 2013/1036), art. 1, **Sch. 1 para. 86(d)(ii)** (with Sch. 3)

**F139** S. 22(5A) inserted (28.2.1997) by 1996 c. 52, s. 104, **Sch. 8 para. 2(6)**; S.I. 1997/225, **art. 2** (with Sch.)

**F140** Words in s. 22(5A)(b) substituted (1.7.2013) by The Transfer of Tribunal Functions Order 2013 (S.I. 2013/1036), art. 1, **Sch. 1 para. 86(e)** (with Sch. 3)

**F141** S. 22(6) inserted (28.2.1997) by 1996 c. 52, **s. 100(3)**; S.I. 1997/225, **art. 2** (with Sch.)

***Status:*** *Point in time view as at 28/08/2020.*
***Changes to legislation:*** *Housing Act 1988, Part I is up to date with all changes known to be in force on or before 14 June 2024. There are changes that may be brought into force at a future date. Changes that have been made appear in the content and are referenced with annotations. (See end of Document for details)*

### 23 Termination of [F142tribunal's] functions.

(1) If the Secretary of State by order made by statutory instrument so provides, section 22 above shall not apply in such cases or to tenancies of dwelling-houses in such areas or in such other circumstances as may be specified in the order.

(2) An order under this section may contain such transitional, incidental and supplementary provisions as appear to the Secretary of State to be desirable.

(3) No order shall be made under this section unless a draft of the order has been laid before, and approved by a resolution of, each House of Parliament.

**Textual Amendments**

**F142** Words in s. 23 substituted (1.7.2013) by The Transfer of Tribunal Functions Order 2013 (S.I. 2013/1036), art. 1, **Sch. 1 para. 87** (with Sch. 3)

## CHAPTER III

## ASSURED AGRICULTURAL OCCUPANCIES

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

**C15** Pt. I Chapter III modified (1.10.1997) by 1996 c. 27, ss. 53, 63(4), **Sch. 7 Pt. II para. 7(5)(6)**(with Sch. 9 paras. 8-10); S.I. 1997/1892, **art. 3** (with art. 4)

### 24 Assured agricultural occupancies.

(1) A tenancy or licence of a dwelling-house is for the purposes of this Part of this Act an "assured agricultural occupancy" if—

(a) it is of a description specified in subsection (2) below; and

(b) by virtue of any provision of Schedule 3 to this Act the agricultural worker condition is for the time being fulfilled with respect to the dwelling-house subject to the tenancy or licence.

(2) The following are the tenancies and licences referred to in subsection (1)(a) above—

(a) an assured tenancy which is not an assured shorthold tenancy;

(b) a tenancy which does not fall within paragraph (a) above by reason only of paragraph 3 **[**F143, 3A, 3B**]** or paragraph 7 of Schedule 1 to this Act (**[**F144or more than one of those paragraphs**]**) **[**F145and is not an excepted tenancy**]**; and

(c) a licence under which a person has the exclusive occupation of a dwelling-house as a separate dwelling and which, if it conferred a sufficient interest in land to be a tenancy, would be a tenancy falling within paragraph (a) or paragraph (b) above.

**[**F146(2A) For the purposes of subsection (2)(b) above, a tenancy is an excepted tenancy if it is—

(a) a tenancy of an agricultural holding within the meaning of the Agricultural Holdings Act 1986 in relation to which that Act applies, or

(b) a farm business tenancy within the meaning of the Agricultural Tenancies Act 1995**]**

***Status:*** *Point in time view as at 28/08/2020.*
***Changes to legislation:*** *Housing Act 1988, Part I is up to date with all changes known to be in force on or before 14 June 2024. There are changes that may be brought into force at a future date. Changes that have been made appear in the content and are referenced with annotations. (See end of Document for details)*

(3) For the purposes of Chapter I above and the following provisions of this Chapter, every assured agricultural occupancy which is not an assured tenancy shall be treated as if it were such a tenancy and any reference to a tenant, a landlord or any other expression appropriate to a tenancy shall be construed accordingly; but the provisions of Chapter I above shall have effect in relation to every assured agricultural occupancy subject to the provisions of this Chapter.

(4) Section 14 above shall apply in relation to an assured agricultural occupancy as if in subsection (1) of that section the reference to an assured tenancy were a reference to an assured agricultural occupancy.

**Textual Amendments**

**F143** Words inserted by S.I. 1990/434, reg. 2, **Sch. para. 28**

**F144** Words substituted by S.I. 1990/434, reg. 2, **Sch. para. 28**

**F145** Words in s. 24(2)(b) inserted (28.2.1997) by 1996 c. 52, **s. 103(2)**; S.I. 1997/225, **art. 2** (with Sch.)

**F146** S. 24(2A) inserted (28.2.1997) by 1996 c. 52, **s. 103(3)**; S.I. 1997/225, **art. 2** (with Sch.)

## 25 Security of tenure.

(1) If a statutory periodic tenancy arises on the coming to an end of an assured agricultural occupancy—

(a) it shall be an assured agricultural occupancy as long as, by virtue of any provision of Schedule 3 to this Act, the agricultural worker condition is for the time being fulfilled with respect to the dwelling-house in question; and

(b) if no rent was payable under the assured agricultural occupancy which constitutes the fixed term tenancy referred to in subsection (2) of section 5 above, subsection (3)(d) of that section shall apply as if for the words "the same as those for which rent was last payable under" there were substituted "monthly beginning on the day following the coming to an end of".

(2) In its application to an assured agricultural occupancy, Part II of Schedule 2 to this Act shall have effect with the omission of Ground 16.

(3) In its application to an assured agricultural occupancy, Part III of Schedule 2 to this Act shall have effect as if any reference in paragraph 2 to an assured tenancy included a reference to an assured agricultural occupancy.

(4) If the tenant under an assured agricultural occupancy gives notice to terminate his employment then, notwithstanding anything in any agreement or otherwise, that notice shall not constitute a notice to quit as respects the assured agricultural occupancy.

(5) Nothing in subsection (4) above affects the operation of an actual notice to quit given in respect of an assured agricultural occupancy.

## 26 Rehousing of agricultural workers etc.

In section 27 of the [M5]Rent (Agriculture) Act 1976 (rehousing: applications to housing authority)—

(a) in subsection (1)(a) after "statutory tenancy" there shall be inserted " "or an assured agricultural occupancy "; and

***Status:*** *Point in time view as at 28/08/2020.*
***Changes to legislation:*** *Housing Act 1988, Part I is up to date with all changes known to be in force on or before 14 June 2024. There are changes that may be brought into force at a future date. Changes that have been made appear in the content and are referenced with annotations. (See end of Document for details)*

(b) at the end of subsection (3) there shall be added " "and assured agricultural occupancy has the same meaning as in Chapter III of Part I of the Housing Act 1988 ".

**Marginal Citations**
**M5** 1976 c. 80.

## CHAPTER IV

PROTECTION FROM EVICTION

### 27 Damages for unlawful eviction.

(1) This section applies if, at any time after 9th June 1988, a landlord (in this section referred to as "the landlord in default") or any person acting on behalf of the landlord in default unlawfully deprives the residential occupier of any premises of his occupation of the whole or part of the premises.

(2) This section also applies if, at any time after 9th June 1988, a landlord (in this section referred to as "the landlord in default") or any person acting on behalf of the landlord in default—

(a) attempts unlawfully to deprive the residential occupier of any premises of his occupation of the whole or part of the premises, or

(b) knowing or having reasonable cause to believe that the conduct is likely to cause the residential occupier of any premises—

(i) to give up his occupation of the premises or any part thereof, or

(ii) to refrain from exercising any right or pursuing any remedy in respect of the premises or any part thereof,

does acts likely to interfere with the peace or comfort of the residential occupier or members of his household, or persistently withdraws or withholds services reasonably required for the occupation of the premises as a residence,

and, as a result, the residential occupier gives up his occupation of the premises as a residence.

(3) Subject to the following provisions of this section, where this section applies, the landlord in default shall, by virtue of this section, be liable to pay to the former residential occupier, in respect of his loss of the right to occupy the premises in question as his residence, damages assessed on the basis set out in section 28 below.

(4) Any liability arising by virtue of subsection (3) above—

(a) shall be in the nature of a liability in tort; and

(b) subject to subsection (5) below, shall be in addition to any liability arising apart from this section (whether in tort, contract or otherwise).

(5) Nothing in this section affects the right of a residential occupier to enforce any liability which arises apart from this section in respect of his loss of the right to occupy premises as his residence; but damages shall not be awarded both in respect of such a liability and in respect of a liability arising by virtue of this section on account of the same loss.

(6) No liability shall arise by virtue of subsection (3) above if—

***Status:*** *Point in time view as at 28/08/2020.*
***Changes to legislation:*** *Housing Act 1988, Part I is up to date with all changes known to be in force on or before 14 June 2024. There are changes that may be brought into force at a future date. Changes that have been made appear in the content and are referenced with annotations. (See end of Document for details)*

(a) before the date on which proceedings to enforce the liability are finally disposed of, the former residential occupier is reinstated in the premises in question in such circumstances that he becomes again the residential occupier of them; or

(b) at the request of the former residential occupier, a court makes an order (whether in the nature of an injunction or otherwise) as a result of which he is reinstated as mentioned in paragraph (a) above;

and, for the purposes of paragraph (a) above, proceedings to enforce a liability are finally disposed of on the earliest date by which the proceedings (including any proceedings on or in consequence of an appeal) have been determined and any time for appealing or further appealing has expired, except that if any appeal is abandoned, the proceedings shall be taken to be disposed of on the date of the abandonment.

(7) If, in proceedings to enforce a liability arising by virtue of subsection (3) above, it appears to the court—

(a) that, prior to the event which gave rise to the liability, the conduct of the former residential occupier or any person living with him in the premises concerned was such that it is reasonable to mitigate the damages for which the landlord in default would otherwise be liable, or

(b) that, before the proceedings were begun, the landlord in default offered to reinstate the former residential occupier in the premises in question and either it was unreasonable of the former residential occupier to refuse that offer or, if he had obtained alternative accommodation before the offer was made, it would have been unreasonable of him to refuse that offer if he had not obtained that accommodation,

the court may reduce the amount of damages which would otherwise be payable to such amount as it thinks appropriate.

(8) In proceedings to enforce a liability arising by virtue of subsection (3) above, it shall be a defence for the defendant to prove that he believed, and had reasonable cause to believe—

(a) that the residential occupier had ceased to reside in the premises in question at the time when he was deprived of occupation as mentioned in subsection (1) above or, as the case may be, when the attempt was made or the acts were done as a result of which he gave up his occupation of those premises; or

(b) that, where the liability would otherwise arise by virtue only of the doing of acts or the withdrawal or withholding of services, he had reasonable grounds for doing the acts or withdrawing or withholding the services in question.

(9) In this section—

(a) "residential occupier", in relation to any premises, has the same meaning as in section 1 of the 1977 Act;

(b) "the right to occupy", in relation to a residential occupier, includes any restriction on the right of another person to recover possession of the premises in question;

(c) "landlord", in relation to a residential occupier, means the person who, but for the occupier's right to occupy, would be entitled to occupation of the premises and any superior landlord under whom that person derives title;

(d) "former residential occupier", in relation to any premises, means the person who was the residential occupier until he was deprived of or gave up his occupation as mentioned in subsection (1) or subsection (2) above (and, in

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relation to a former residential occupier, "the right to occupy" and "landlord" shall be construed accordingly).

**28 The measure of damages.**

(1) The basis for the assessment of damages referred to in section 27(3) above is the difference in value, determined as at the time immediately before the residential occupier ceased to occupy the premises in question as his residence, between—

(a) the value of the interest of the landlord in default determined on the assumption that the residential occupier continues to have the same right to occupy the premises as before that time; and

(b) the value of that interest determined on the assumption that the residential occupier has ceased to have that right.

(2) In relation to any premises, any reference in this section to the interest of the landlord in default is a reference to his interest in the building in which the premises in question are comprised (whether or not that building contains any other premises) together with its curtilage.

(3) For the purposes of the valuations referred to in subsection (1) above, it shall be assumed—

(a) that the landlord in default is selling his interest on the open market to a willing buyer;

(b) that neither the residential occupier nor any member of his family wishes to buy; and

(c) that it is unlawful to carry out any substantial development of any of the land in which the landlord's interest subsists or to demolish the whole or part of any building on that land.

(4) In this section "the landlord in default" has the same meaning as in section 27 above and subsection (9) of that section applies in relation to this section as it applies in relation to that.

(5) Section 113 of the [M6]Housing Act 1985 (meaning of "members of a person's family") applies for the purposes of subsection (3)(b) above.

(6) The reference in subsection (3)(c) above to substantial development of any of the land in which the landlord's interest subsists is a reference to any development other than—

(a) development for which planning permission is granted by a general development order for the time being in force and which is carried out so as to comply with any condition or limitation subject to which planning permission is so granted; or

(b) a change of use resulting in the building referred to in subsection (2) above or any part of it being used as, or as part of, one or more dwelling-houses;

and in this subsection "general development order"**[**[F147]has the meaning given in section 56(6) of the Town and Country Planning Act 1990**]** and other expressions have the same meaning as in that Act.

**Textual Amendments**

**F147** Words substituted by Planning (Consequential Provisions) Act 1990 (c. 11, SIF 123:1), s. 4, **Sch. 2 para. 79(1)**

***Status:*** *Point in time view as at 28/08/2020.*
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**Marginal Citations**

**M6** 1985 c. 68.

## 29 Offences of harassment.

(1) In section 1 of the 1977 Act (unlawful eviction and harassment of occupier), with respect to acts done after the commencement of this Act, subsection (3) shall have effect with the substitution, for the word "calculated", of the word "likely".

(2) After that subsection there shall be inserted the following subsections—

"(3A) Subject to subsection (3B) below, the landlord of a residential occupier or an agent of the landlord shall be guilty of an offence if—

(a) he does acts likely to interfere with the peace or comfort of the residential occupier or members of his household, or

(b) he persistently withdraws or withholds services reasonably required for the occupation of the premises in question as a residence,

and (in either case) he knows, or has reasonable cause to believe, that that conduct is likely to cause the residential occupier to give up the occupation of the whole or part of the premises or to refrain from exercising any right or pursuing any remedy in respect of the whole or part of the premises.

(3B) A person shall not be guilty of an offence under subsection (3A) above if he proves that he had reasonable grounds for doing the acts or withdrawing or withholding the services in question.

(3C) In subsection (3A) above "landlord", in relation to a residential occupier of any premises, means the person who, but for—

(a) the residential occupier's right to remain in occupation of the premises, or

(b) a restriction on the person's right to recover possession of the premises,

would be entitled to occupation of the premises and any superior landlord under whom that person derives title."

## 30 Variation of scope of 1977 ss. 3 and 4.

(1) In section 3 of the 1977 Act (prohibition of eviction without due process of law), in subsection (1) for the words "not a statutorily protected tenancy" there shall be substituted "neither a statutorily protected tenancy nor an excluded tenancy".

(2) After subsection (2A) of that section there shall be inserted the following subsections—

"(2B) Subsections (1) and (2) above apply in relation to any premises occupied as a dwelling under a licence, other than an excluded licence, as they apply in relation to premises let as a dwelling under a tenancy, and in those subsections the expressions "let" and "tenancy" shall be construed accordingly.

(2C) References in the preceding provisions of this section and section 4(2A) below to an excluded tenancy do not apply to—

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(a) a tenancy entered into before the date on which the Housing Act 1988 came into force, or

(b) a tenancy entered into on or after that date but pursuant to a contract made before that date,but, subject to that, "excluded tenancy" and "excluded licence" shall be construed in accordance with section 3A below."

(3) In section 4 of the 1977 Act (special provisions for agricultural employees) after subsection (2) there shall be inserted the following subsection—

"(2A) In accordance with section 3(2B) above, any reference in subsections (1) and (2) above to the tenant under the former tenancy includes a reference to the licensee under a licence (other than an excluded licence) which has come to an end (being a licence to occupy premises as a dwelling); and in the following provisions of this section the expressions "tenancy" and "rent" and any other expressions referable to a tenancy shall be construed accordingly."

**31 Excluded tenancies and licences.**

After section 3 of the 1977 Act there shall be inserted the following section—

"**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 accommodation shall be construed accordingly, and if, in relation to any tenancy or licence, there is at any time more than one person who

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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 1985 shall apply to determine whether a person 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.

(8) 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, district or London Borough, the Common Council of the City of London, the Council of the Isles of Scilly, the Inner London Education Authority, a joint authority within the meaning of the Local Government Act 1985 or a residuary body within the meaning of that Act;

(b) a development corporation within the meaning of the New Towns Act 1981;

(c) the Commission for the New Towns;

(d) an urban development corporation established by an order under section 135 of the Local Government, Planning and Land Act 1980;

(e) a housing action trust established under Part III of the Housing Act 1988;

(f) the Development Board for Rural Wales;

(g) the Housing Corporation or Housing for Wales;

(h) a housing trust which is a charity or a registered housing association, within the meaning of the Housing Associations 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.

(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."

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**32 Notice to quit etc.**

(1) In section 5 of the 1977 Act (validity of notices to quit) at the beginning of subsection (1) there shall be inserted the words "Subject to subsection (1B) below".

(2) After subsection (1) of that section there shall be inserted the following subsections—

"(1A) Subject to subsection (1B) below, no notice by a licensor or a licensee to determine a periodic licence to occupy premises as a dwelling (whether the licence was granted before or after the passing of this Act) shall be valid unless—

(a) it is in writing and contains such information as may be prescribed, and

(b) it is given not less than 4 weeks before the date on which it is to take effect.

(1B) Nothing in subsection (1) or subsection (1A) above applies to—

(a) premises let on an excluded tenancy which is entered into on or after the date on which the Housing Act 1988 came into force unless it is entered into pursuant to a contract made before that date; or

(b) premises occupied under an excluded licence."

**33 Interpretation of Chapter IV and the 1977 Act.**

(1) In this Chapter "the 1977 Act" means the [M7]Protection from Eviction Act 1977.

(2) In section 8 of the 1977 Act (interpretation) at the end of subsection (1) (statutory protected tenancy) there shall be inserted—

"(e) an assured tenancy or assured agricultural occupancy under Part I of the Housing Act 1988."

(3) At the end of that section there shall be added the following subsections—

"(4) In this Act "excluded tenancy" and "excluded licence" have the meaning assigned by section 3A of this Act.

(5) If, on or after the date on which the Housing Act 1988 came into force, the terms of an excluded tenancy or excluded licence entered into before that date are varied, then—

(a) if the variation affects the amount of the rent which is payable under the tenancy or licence, the tenancy or licence shall be treated for the purposes of sections 3(2C) and 5(1B) above as a new tenancy or licence entered into at the time of the variation; and

(b) if the variation does not affect the amount of the rent which is so payable, nothing in this Act shall affect the determination of the question whether the variation is such as to give rise to a new tenancy or licence.

(6) Any reference in subsection (5) above to a variation affecting the amount of the rent which is payable under a tenancy or licence does not include a reference to—

(a) a reduction or increase effected under Part III or Part VI of the Rent Act 1977 (rents under regulated tenancies and housing association tenancies), section 78 of that Act (power of rent tribunal in relation

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to restricted contracts) or sections 11 to 14 of the Rent (Agriculture) Act 1976; or

(b) a variation which is made by the parties and has the effect of making the rent expressed to be payable under the tenancy or licence the same as a rent for the dwelling which is entered in the register under Part IV or section 79 of the Rent Act 1977."

**Marginal Citations**

**M7** 1977 c. 43.

## CHAPTER V

### PHASING OUT OF RENT ACTS AND OTHER TRANSITIONAL PROVISIONS

### 34 New protected tenancies and agricultural occupancies restricted to special cases.

(1) A tenancy which is entered into on or after the commencement of this Act cannot be a protected tenancy, unless—

(a) it is entered into in pursuance of a contract made before the commencement of this Act; or

(b) it is granted to a person (alone or jointly with others) who, immediately before the tenancy was granted, was a protected or statutory tenant and is so granted by the person who at that time was the landlord (or one of the joint landlords) under the protected or statutory tenancy; or

(c) it is granted to a person (alone or jointly with others) in the following circumstances—

(i) prior to the grant of the tenancy, an order for possession of a dwelling-house was made against him (alone or jointly with others) on the court being satisfied as mentioned in section 98(1)(a) of, or Case 1 in Schedule 16 to, the [M8]Rent Act 1977 or Case 1 in Schedule 4 to the [M9]Rent (Agriculture) Act 1976 (suitable alternative accommodation available); and

(ii) the tenancy is of the premises which constitute the suitable alternative accommodation as to which the court was so satisfied; and

(iii) in the proceedings for possession the court considered that, in the circumstances, the grant of an assured tenancy would not afford the required security and, accordingly, directed that the tenancy would be a protected tenancy; or

**[**[F148](d) it is a tenancy under which the interest of the landlord was at the time the tenancy was granted held by **[**[F149]the Commission for the New Towns or a development**]** corporation, within the meaning of section 80 of the Housing Act 1985, and, before the date which has effect by virtue of paragraph (a) or paragraph (b) of subsection (4) of section 38 below, ceased to be so held by virtue of a disposal by the Commission for the New Towns made pursuant to a direction under section 37 of the New Towns Act 1981**]**

(2) In subsection (1)(b) above "protected tenant" and "statutory tenant" do not include—

(a) a tenant under a protected shorthold tenancy;

(b) a protected or statutory tenant of a dwelling-house which was let under a protected shorthold tenancy which ended before the commencement of this Act and in respect of which at that commencement either there has been no grant of a further tenancy or any grant of a further tenancy has been to the person who, immediately before the grant, was in possession of the dwelling-house as a protected or statutory tenant;

and in this subsection "protected shorthold tenancy" includes a tenancy which, in proceedings for possession under Case 19 in Schedule 15 to the Rent Act 1977, is treated as a protected shorthold tenancy.

(3) In any case where—

(a) by virtue of subsections (1) and (2) above, a tenancy entered into on or after the commencement of this Act is an assured tenancy, but

(b) apart from subsection (2) above, the effect of subsection (1)(b) above would be that the tenancy would be a protected tenancy, and

(c) the landlord and the tenant under the tenancy are the same as at the coming to an end of the protected or statutory tenancy which, apart from subsection (2) above, would fall within subsection (1)(b) above,

the tenancy shall be an assured shorthold tenancy (whether or not **[**[F150], in the case of a tenancy to which the provision applies,**]** it fulfils the conditions in section 20(1) above) unless, before the tenancy is entered into, the landlord serves notice on the tenant that it is not to be a shorthold tenancy.

(4) A licence or tenancy which is entered into on or after the commencement of this Act cannot be a relevant licence or relevant tenancy for the purposes of the [M10]Rent (Agriculture) Act 1976 (in this subsection referred to as "the 1976 Act") unless—

(a) it is entered into in pursuance of a contract made before the commencement of this Act; or

(b) it is granted to a person (alone or jointly with others) who, immediately before the licence or tenancy was granted, was a protected occupier or statutory tenant, within the meaning of the 1976 Act, and is so granted by the person who at that time was the landlord or licensor (or one of the joint landlords or licensors) under the protected occupancy or statutory tenancy in question.

(5) Except as provided in subsection (4) above, expressions used in this section have the same meaning as in the [M11]Rent Act 1977.

**Textual Amendments**

**F148** S. 34(1)(d) substituted by Local Government and Housing Act 1989 (c. 42, SIF 75:1), s. 194, **Sch. 11 para. 104**

**F149** Words in s. 34(1)(d) substituted (1.12.2008) by The Housing and Regeneration Act 2008 (Consequential Provisions) Order 2008 (S.I. 2008/3002), arts. 1(2), 4, **Sch. 1 para. 37** (with Sch. 2); S.I. 2008/3068, **art. 2(1)(b)** (with arts. 6-13)

**F150** Words in s. 34(3) inserted (28.2.1997) by 1996 c. 52, s. 104, **Sch. 8 para. 2(7)**; S.I. 1997/225, **art. 2** (with Sch.)

**Marginal Citations**

**M8** 1977 c. 42.

**M9** 1976 c. 80.

**M10** 1976 c. 80.

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**M11** 1977 c. 42.

## 35 Removal of special regimes for tenancies of housing associations etc.

(1) In this section "housing association tenancy" has the same meaning as in Part VI of the Rent Act 1977.

(2) A tenancy which is entered into on or after the commencement of this Act cannot be a housing association tenancy unless—

(a) it is entered into in pursuance of a contract made before the commencement of this Act; or

(b) it is granted to a person (alone or jointly with others) who, immediately before the tenancy was granted, was a tenant under a housing association tenancy and is so granted by the person who at that time was the landlord under that housing association tenancy; or

(c) it is granted to a person (alone or jointly with others) in the following circumstances—

(i) prior to the grant of the tenancy, an order for possession of a dwelling-house was made against him (alone or jointly with others) on the court being satisfied as mentioned in paragraph (b) or paragraph (c) of subsection (2) of section 84 of the [M12]Housing Act 1985; and

(ii) the tenancy is of the premises which constitute the suitable accommodation as to which the court was so satisfied; and

(iii) in the proceedings for possession the court directed that the tenancy would be a housing association tenancy; or

**[**[F151](d) it is a tenancy under which the interest of the landlord was at the time the tenancy was granted held by **[**[F152]the Commission for the New Towns or a development**]** corporation, within the meaning of section 80 of the Housing Act 1985, and, before the date which has effect by virtue of paragraph (a) or paragraph (b) of subsection (4) of section 38 below, ceased to be so held by virtue of a disposal by the Commission for the New Towns made pursuant to a direction under section 37 of the New Towns Act 1981**]**

(3) Where, on or after the commencement of this Act, **[**[F153]a private registered provider of social housing or**]** a **[**[F154]registered social lanlord, within the meaning of the Housing Act 1985 (see section 5(4) and (5) of the Act)**]**, grants a secure tenancy pursuant to an obligation under section 554(2A) of the [M13]Housing Act 1985 (as set out in Schedule 17 to this Act) then, in determining whether that tenancy is a housing association tenancy, it shall be assumed for the purposes only of section 86(2)(b) of the [M14]Rent Act 1977 (tenancy would be a protected tenancy but for section 15 or 16 of that Act) that the tenancy was granted before the commencement of this Act.

(4) **[**[F155]Subject to section 38(4A) below**]** a tenancy or licence which is entered into on or after the commencement of this Act cannot be a secure tenancy unless—

(a) the interest of the landlord belongs to a local authority, a **[**[F156]development**]** corporation or an urban development corporation, all within the meaning of section 80 of the Housing Act 1985 **[**[F157]or a housing action trust established under Part III of this Act**]**; or

**[**[F158](aa) the interest of the landlord belongs to a Mayoral development corporation; or**]**

(b) the interest of the landlord belongs to a housing co-operative within the meaning of section 27B of the Housing Act 1985 (agreements between local

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housing authorities and housing co-operatives) and the tenancy or licence is of a dwelling-house comprised in a housing co-operative agreement falling within that section; or

**[**[F159](ba) the interest of the landlord belongs to the Homes and Communities Agency**[**[F160], the Greater London Authority**]** or the Welsh Ministers and the tenancy or licence falls within section 80(2A) to (2E) of the Housing Act 1985; or**]**

(c) it is entered into in pursuance of a contract made before the commencement of this Act; or

(d) it is granted to a person (alone or jointly with others) who, immediately before it was entered into, was a secure tenant and is so granted by the body which at that time was the landlord or licensor under the secure tenancy; or

(e) it is granted to a person (alone or jointly with others) in the following circumstances—

(i) prior to the grant of the tenancy or licence, an order for possession of a dwelling-house was made against him (alone or jointly with others) on the court being satisfied as mentioned in paragraph (b) or paragraph (c) of subsection (2) of section 84 of the Housing Act 1985; and

(ii) the tenancy or licence is of the premises which constitute the suitable accommodation as to which the court was so satisfied; and

(iii) in the proceedings for possession the court considered that, in the circumstances, the grant of an assured tenancy would not afford the required security and, accordingly, directed that the tenancy or licence would be a secure tenancy; or

(f) it is granted pursuant to an obligation under section 554(2A) of the Housing Act 1985 (as set out in Schedule 17 to this Act).

(5) If, on or after the commencement of this Act, the interest of the landlord under a protected or statutory tenancy becomes held by a housing association, a housing trust **[**[F161]**[**[F162]or the Regulator of Social Housing**]]**[F163]or, where that interest becomes held by him as the result of the exercise by him of functions under Part III of the Housing Association Act 1985, the Secretary of State,**]** nothing in the preceding provisions of this section shall prevent the tenancy from being a housing association tenancy or a secure tenancy and, accordingly, in such a case section 80 of the Housing Act 1985 (and any enactment which refers to that section) shall have effect without regard to the repeal of provisions of that section effected by this Act.

(6) In subsection (5) above "housing association" and "housing trust" have the same meaning as in the [M15]Housing Act 1985.

**Textual Amendments**

**F151** S. 35(2)(d) substituted by Local Government and Housing Act 1989 (c. 42, SIF 75:1), s. 194, **Sch. 11 para. 105(1)**

**F152** Words in s. 35(2)(d) substituted (1.12.2008) by The Housing and Regeneration Act 2008 (Consequential Provisions) Order 2008 (S.I. 2008/3002), arts. 1(2), 4, **Sch. 1 para. 38(2)** (with Sch. 2); S.I. 2008/3068, **art. 2(1)(b)** (with arts. 6-13)

**F153** Words in s. 35(3) 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. 66(2)** (with art. 6, Sch. 3)

**F154** Words in s. 35(3) substituted (1.10.1996) by S.I. 1996/2325, art. 5(1), **Sch. 2 para. 18(2)**

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**F155** Words inserted by Local Government and Housing Act 1989 (c. 42, SIF 75:1), s. 194, **Sch. 11 para. 105(2)**

**F156** Word in s. 35(4)(a) substituted (1.12.2008) by The Housing and Regeneration Act 2008 (Consequential Provisions) Order 2008 (S.I. 2008/3002), arts. 1(2), 4, **Sch. 1 para. 38(3)(a)** (with Sch. 2); S.I. 2008/3068, **art. 2(1)(b)** (with arts. 6-13)

**F157** Words in s. 35(4)(a) substituted (1.10.1998) by 1998 c. 38, s. 129, **Sch. 15 para. 15** (with ss. 139(2), 141(3), 143(2)); S.I. 1998/2244, **art. 4**

**F158** S. 35(4)(aa) inserted (15.1.2012) by Localism Act 2011 (c. 20), s. 240(1)(l), **Sch. 22 para. 26**

**F159** S. 35(4)(ba) inserted (1.12.2008) by The Housing and Regeneration Act 2008 (Consequential Provisions) Order 2008 (S.I. 2008/3002), arts. 1(2), 4, **Sch. 1 para. 38(3)(b)** (with Sch. 2); S.I. 2008/3068, **art. 2(1)(b)** (with arts. 6-13)

**F160** Words in s. 35(4)(ba) inserted (1.4.2012) by Localism Act 2011 (c. 20), s. 240(2), **Sch. 19 para. 26**; S.I. 2012/628, art. 6(i) (with arts. 911141517)

**F161** Words in s. 35(5) substituted (1.11.1998) by 1998 c. 38, s. 140(1), **Sch. 16 para. 60**; S.I. 1998/2244, **art. 5**

**F162** Words in s. 35(5) 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. 66(3)** (with art. 6, Sch. 3)

**F163** Words in s. 35(5) inserted (15.1.1999) by S.I. 1999/61, art. 2, **Sch. para. 3(2)**

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

**C16** S. 35(5) modified (1.12.2008) by The Transfer of Housing Corporation Functions (Modifications and Transitional Provisions) Order 2008 (S.I. 2008/2839), arts. 1(1), 3, **Sch. para. 1**; S.I. 2008/3068, **art. 2(1)(b)** (with arts. 6-11)

**Marginal Citations**

**M12** 1985 c. 68.

**M13** 1985 c. 68.

**M14** 1977 c. 42.

**M15** 1985 c. 68.

## 36 New restricted contracts limited to transitional cases.

(1) A tenancy or other contract entered into after the commencement of this Act cannot be a restricted contract for the purposes of the Rent Act 1977 unless it is entered into in pursuance of a contract made before the commencement of this Act.

(2) If the terms of a restricted contract are varied after this Act comes into force then, subject to subsection (3) below,—

(a) if the variation affects the amount of the rent which, under the contract, is payable for the dwelling in question, the contract shall be treated as a new contract entered into at the time of the variation (and subsection (1) above shall have effect accordingly); and

(b) if the variation does not affect the amount of the rent which, under the contract, is so payable, nothing in this section shall affect the determination of the question whether the variation is such as to give rise to a new contract.

(3) Any reference in subsection (2) above to a variation affecting the amount of the rent which, under a contract, is payable for a dwelling does not include a reference to—

(a) a reduction or increase effected under section 78 of the Rent Act 1977 (power of **[**[F164]appropriate**]** tribunal); or

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(b) a variation which is made by the parties and has the effect of making the rent expressed to be payable under the contract the same as the rent for the dwelling which is entered in the register under section 79 of the Rent Act 1977.

(4) In subsection (1) of section 81A of the Rent Act 1977 (cancellation of registration of rent relating to a restricted contract) paragraph (a) (no cancellation until two years have elapsed since the date of the entry) shall cease to have effect.

(5) In this section "rent" has the same meaning as in Part V of the Rent Act 1977.

**Textual Amendments**

**F164** Word in s. 36(3)(a) substituted (1.7.2013) by The Transfer of Tribunal Functions Order 2013 (S.I. 2013/1036), art. 1, **Sch. 1 para. 88** (with Sch. 3)

## 37 No further assured tenancies under Housing Act 1980.

(1) A tenancy which is entered into on or after the commencement of this Act cannot be an assured tenancy for the purposes of sections 56 to 58 of the [M16]Housing Act 1980 (in this section referred to as a "1980 Act tenancy").

(2) In any case where—

(a) before the commencement of this Act, a tenant under a 1980 Act tenancy made an application to the court under section 24 of the [M17]Landlord and Tenant Act 1954 (for the grant of a new tenancy), and

(b) at the commencement of this Act the 1980 Act tenancy is continuing by virtue of that section or of any provision of Part IV of the said Act of 1954,

section 1(3) of this Act shall not apply to the 1980 Act tenancy.

(3) If, in a case falling within subsection (2) above, the court makes an order for the grant of a new tenancy under section 29 of the [M18]Landlord and Tenant Act 1954, that tenancy shall be an assured tenancy for the purposes of this Act.

(4) In any case where—

(a) before the commencement of this Act a contract was entered into for the grant of a 1980 Act tenancy, but

(b) at the commencement of this Act the tenancy had not been granted,

the contract shall have effect as a contract for the grant of an assured tenancy (within the meaning of this Act).

(5) In relation to an assured tenancy falling within subsection (3) above or granted pursuant to a contract falling within subsection (4) above, Part I of Schedule 1 to this Act shall have effect as if it consisted only of paragraphs 11 and 12; and, if the landlord granting the tenancy is a fully mutual housing association, then, so long as that association remains the landlord under that tenancy (and under any statutory periodic tenancy which arises on the coming to an end of that tenancy), the said paragraph 12 shall have effect in relation to that tenancy with the omission of sub-paragraph (1)(h).

(6) Any reference in this section to a provision of the Landlord and Tenant Act 1954 is a reference only to that provision as applied by section 58 of the [M19]Housing Act 1980.

**Status:** *Point in time view as at 28/08/2020.*
**Changes to legislation:** *Housing Act 1988, Part I is up to date with all changes known to be in force on or before 14 June 2024. There are changes that may be brought into force at a future date. Changes that have been made appear in the content and are referenced with annotations. (See end of Document for details)*

**Marginal Citations**

**M16** 1980 c. 51.
**M17** 1954 c. 56.
**M18** 1954 c. 56.
**M19** 1980 c. 51.

## 38 Transfer of existing tenancies from public to private sector.

(1) The provisions of subsection (3) below apply in relation to a tenancy which was entered into before, or pursuant to a contract made before, the commencement of this Act if,—

(a) at that commencement or, if it is later, at the time it is entered into, the interest of the landlord is held by a public body (within the meaning of subsection (5) below); and

(b) at some time after that commencement, the interest of the landlord ceases to be so held.

(2) The provisions of subsection (3) below also apply in relation to a tenancy which was entered into before, or pursuant to a contract made before, the commencement of this Act if,—

(a) at the commencement of this Act or, if it is later, at the time it is entered into, it is a housing association tenancy; and

(b) at some time after that commencement, it ceases to be such a tenancy.

(3) **[**[F165]Subject to subsections (4) **[**[F166]**[**[F167](4ZA), (4A), (4BA)**]** and (4B),**]** below**]** on and after the time referred to in subsection (1)(b) or, as the case may be, subsection (2)(b) above—

(a) the tenancy shall not be capable of being a protected tenancy, a protected occupancy or a housing association tenancy;

(b) the tenancy shall not be capable of being a secure tenancy unless (and only at a time when) the interest of the landlord under the tenancy is (or is again) held by a public body; and

(c) paragraph 1 of Schedule 1 to this Act shall not apply in relation to it, and the question whether at any time thereafter it becomes (or remains) an assured tenancy shall be determined accordingly.

(4) In relation to a tenancy under which, at the commencement of this Act or, if it is later, at the time the tenancy is entered into, the interest of the landlord is held by **[**[F168]the Commission for the New Towns or a development**]** corporation, within the meaning of section 80 of the [M20]Housing Act 1985 **[**[F169]and which subsequently ceases to be so held by virtue of a disposal by the Commission for the New Towns made pursuant to a direction under section 37 of the New Towns Act 1981**]**, subsections (1) and (3) above shall have effect as if any reference in subsection (1) above to the commencement of this Act were a reference to—

(a) the date on which expires the period of two years beginning on the day this Act is passed; or

(b) if the Secretary of State by order made by statutory instrument within that period so provides, such other date (whether earlier or later) as may be specified by the order for the purposes of this subsection.

**[**[F170](4ZA) In relation to any time on or after the coming into force of this subsection, subsection (4) applies as if—

(a) the references to the Commission for the New Towns were references to the new towns residuary body;

(b) in the case of a disposal by the English new towns residuary body, the reference to section 37 of the New Towns Act 1981 were a reference to section 47 of the Housing and Regeneration Act 2008; and

(c) in the case of a disposal by the Welsh new towns residuary body, the words "made pursuant to a direction under section 37 of the New Towns Act 1981" were omitted.**]**

**[**[F171](4A) Where, by virtue of a disposal falling within subsection (4) above and made before the date which has effect by virtue of paragraph (a) or paragraph (b) of that subsection, the interest of the landlord under a tenancy passes to **[**[F172]a private registered provider of social housing or**]** a **[**[F173]registered social landlord (within the meaning of the Housing Act 1985 (see section 5(4) and (5) of that Act))**]**, then, notwithstanding anything in subsection (3) above, so long as the tenancy continues to be held by a body which would have been specified in subsection (1) of section 80 of the Housing Act 1985 if the repeal of provisions of that section effected by this Act had not been made, the tenancy shall continue to be a secure tenancy and to be capable of being a housing association tenancy.**]**

**[**[F174](4B) Where, by virtue of a disposal by the Secretary of State made in the exercise by him of functions under Part III of the Housing Associations Act 1985, the interest of the landlord under a secure tenancy passes to a registered social landlord (within the meaning of the Housing Act 1985) then, notwithstanding anything in subsection (3) above, so long as the tenancy continues to be held by a body which would have been specified in subsection (1) of section 80 of the Housing Act 1985 if the repeal of provisions of that section effected by this Act had not been made, the tenancy shall continue to be a secure tenancy and to be capable of being a housing association tenancy.**]**

**[**[F175](4BA) The references in subsections (4A) and (4B) to a body which would have been specified in subsection (1) of section 80 of the Housing Act 1985 if the repeal of provisions of that section effected by this Act had not been made includes a reference to the new towns residuary body.**]**

(5) For the purposes of this section, the interest of a landlord under a tenancy is held by a public body at a time when—

(a) it belongs to a local authority, a **[**[F176]development**]** corporation or an urban development corporation, all within the meaning of section 80 of the Housing Act 1985 **[**[F177]or to the English new towns residuary body**]**; or

**[**[F178](aa) it belongs to a Mayoral development corporation; or**]**

(b) it belongs to a housing action trust established under Part III of this Act; or

[F179](c) . . . . . .

(d) it belongs to Her Majesty in right of the Crown or to a government department or is held in trust for Her Majesty for the purposes of a government department.

**[**[F180](5A) In this section " new towns residuary body " means—

(a) in relation to times before the coming into force of this subsection, the Commission for the New Towns; and

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(b) in relation to other times—

(i) 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 **[**[F181]or the Greater London Authority so far as exercising its new towns and urban development functions**]** (and any reference to the English new towns residuary body shall be construed accordingly); and

(ii) in relation to Wales, 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 (and any reference to the Welsh new towns residuary body shall be construed accordingly).**]**

(6) In this section—

(a) "housing association tenancy" means a tenancy to which Part VI of the [M21]Rent Act 1977 applies;

(b) "protected tenancy" has the same meaning as in that Act; and

(c) "protected occupancy" has the same meaning as in the [M22]Rent (Agriculture) Act 1976.

**Textual Amendments**

**F165** Words inserted by Local Government and Housing Act 1989 (c. 42, SIF 75:1), s. 194, **Sch. 11 para. 106(1)**

**F166** Words in s. 38(3) substituted (15.1.1999) by S.I. 1999/61, art. 2, **Sch. para. 3(3)(a)**

**F167** Words in s. 38(3) substituted (1.12.2008) by The Housing and Regeneration Act 2008 (Consequential Provisions) Order 2008 (S.I. 2008/3002), arts. 1(2), 4, **Sch. 1 para. 39(2)** (with Sch. 2); S.I. 2008/3068, **art. 2(1)(b)** (with arts. 6-13)

**F168** Words in s. 38(4) substituted (1.12.2008) by The Housing and Regeneration Act 2008 (Consequential Provisions) Order 2008 (S.I. 2008/3002), arts. 1(2), 4, **Sch. 1 para. 39(3)** (with Sch. 2); S.I. 2008/3068, **art. 2(1)(b)** (with arts. 6-13)

**F169** Words inserted by Local Government and Housing Act 1989 (c. 42, SIF 75:1), s. 194, **Sch. 11 para. 106(2)**

**F170** S. 38(4ZA) inserted (1.12.2008) by The Housing and Regeneration Act 2008 (Consequential Provisions) Order 2008 (S.I. 2008/3002), arts. 1(2), 4, **Sch. 1 para. 39(4)** (with Sch. 2); S.I. 2008/3068, **art. 2(1)(b)** (with arts. 6-13)

**F171** S. 38(4A) inserted by Local Government and Housing Act 1989 (c. 42, SIF 75:1), s. 194, **Sch. 11 para. 106(3)**

**F172** Words in s. 38(4A) 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. 67** (with art. 6, Sch. 3)

**F173** Words in s. 38(4A) substituted (1.10.1996) by S.I. 1996/2325, art. 5(1), **Sch. 2 para. 18(3)**

**F174** S. 38(4B) inserted (15.1.1999) by S.I. 1999/61, art. 2, **Sch. para. 3(3)(b)**

**F175** S. 38(4BA) inserted (1.12.2008) by The Housing and Regeneration Act 2008 (Consequential Provisions) Order 2008 (S.I. 2008/3002), arts. 1(2), 4, **Sch. 1 para. 39(5)** (with Sch. 2); S.I. 2008/3068, **art. 2(1)(b)** (with arts. 6-13)

**F176** Word in s. 38(5)(a) substituted (1.12.2008) by The Housing and Regeneration Act 2008 (Consequential Provisions) Order 2008 (S.I. 2008/3002), arts. 1(2), 4, **Sch. 1 para. 39(6)(a)** (with Sch. 2); S.I. 2008/3068, **art. 2(1)(b)** (with arts. 6-13)

**F177** Words in s. 38(5)(a) inserted (1.12.2008) by The Housing and Regeneration Act 2008 (Consequential Provisions) Order 2008 (S.I. 2008/3002), arts. 1(2), 4, **Sch. 1 para. 39(6)(b)** (with Sch. 2); S.I. 2008/3068, **art. 2(1)(b)** (with arts. 6-13)

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**F178** S. 38(5)(aa) inserted (15.1.2012) by Localism Act 2011 (c. 20), s. 240(1)(l), **Sch. 22 para. 27**

**F179** S. 38(5)(c) repealed (1.10.1998) by 1998 c. 38, s. 152, **Sch. 18 Pt. IV** (with ss. 137(1), 139(2), 141(1), 143(2)); S.I. 1998/2244, **art. 4**

**F180** S. 38(5A) inserted (1.12.2008) by The Housing and Regeneration Act 2008 (Consequential Provisions) Order 2008 (S.I. 2008/3002), arts. 1(2), 4, **Sch. 1 para. 39(7)** (with Sch. 2); S.I. 2008/3068, **art. 2(1)(b)** (with arts. 6-13)

**F181** Words in s. 38(5A)(b)(i) inserted (1.4.2012) by Localism Act 2011 (c. 20), s. 240(2), **Sch. 19 para. 27**; S.I. 2012/628, art. 6(i) (with arts. 911141517)

**Marginal Citations**

**M20** 1985 c. 68.

**M21** 1977 c. 42.

**M22** 1976 c. 80.

## 39 Statutory tenants: succession.

(1) In section 2(1)(b) of the Rent Act 1977 (which introduces the provisions of Part I of Schedule 1 to that Act relating to statutory tenants by succession) after the words "statutory tenant of a dwelling-house" there shall be inserted "or, as the case may be, is entitled to an assured tenancy of a dwelling-house by succession".

(2) Where the person who is the original tenant, within the meaning of Part I of Schedule 1 to the Rent Act 1977, dies after the commencement of this Act, that Part shall have effect subject to the amendments in Part I of Schedule 4 to this Act.

(3) Where subsection (2) above does not apply but the person who is the first successor, within the meaning of Part I of Schedule 1 to the Rent Act 1977, dies after the commencement of this Act, that Part shall have effect subject to the amendments in paragraphs 5 to 9 of Part I of Schedule 4 to this Act.

(4) In any case where the original occupier, within the meaning of section 4 of the Rent (Agriculture) Act 1976 (statutory tenants and tenancies) dies after the commencement of this Act, that section shall have effect subject to the amendments in Part II of Schedule 4 to this Act.

(5) In any case where, by virtue of any provision of—

(a) Part I of Schedule 1 to the [M23]Rent Act 1977, as amended in accordance with subsection (2) or subsection (3) above, or

(b) section 4 of the [M24]Rent (Agriculture) Act 1976, as amended in accordance with subsection (4) above,

a person (in the following provisions of this section referred to as "the successor") becomes entitled to an assured tenancy of a dwelling-house by succession, that tenancy shall be a periodic tenancy arising by virtue of this section.

(6) Where, by virtue of subsection (5) above, the successor becomes entitled to an assured periodic tenancy, that tenancy is one—

(a) taking effect in possession immediately after the death of the protected or statutory tenant or protected occupier (in the following provisions of this section referred to as "the predecessor") on whose death the successor became so entitled;

(b) deemed to have been granted to the successor by the person who, immediately before the death of the predecessor, was the landlord of the predecessor under his tenancy;

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(c) under which the premises which are let are the same dwelling-house as, immediately before his death, the predecessor occupied under his tenancy;

(d) under which the periods of the tenancy are the same as those for which rent was last payable by the predecessor under his tenancy;

(e) under which, subject to sections 13 to 15 above, the other terms are the same as those on which, under his tenancy, the predecessor occupied the dwelling-house immediately before his death; and

(f) which, for the purposes of section 13(2) above, is treated as a statutory periodic tenancy;

and in paragraphs (b) to (e) above "under his tenancy", in relation to the predecessor, means under his protected tenancy or protected occupancy or in his capacity as a statutory tenant.

(7) If, immediately before the death of the predecessor, the landlord might have recovered possession of the dwelling-house under Case 19 in Schedule 15 to the Rent Act 1977, the assured periodic tenancy to which the successor becomes entitled shall be an assured shorthold tenancy (whether or not **[**[F182], in the case of a tenancy to which the provision applies**]** it fulfils the conditions in section 20(1) above).

(8) If, immediately before his death, the predecessor was a protected occupier or statutory tenant within the meaning of the Rent (Agriculture) Act 1976, the assured periodic tenancy to which the successor becomes entitled shall be an assured agricultural occupancy (whether or not it fulfils the conditions in section 24(1) above).

(9) Where, immediately before his death, the predecessor was a tenant under a fixed term tenancy, section 6 above shall apply in relation to the assured periodic tenancy to which the successor becomes entitled on the predecessor's death subject to the following modifications—

(a) for any reference to a statutory periodic tenancy there shall be substituted a reference to the assured periodic tenancy to which the successor becomes so entitled;

(b) in subsection (1) of that section, paragraph (a) shall be omitted and the reference in paragraph (b) to section 5(3)(e) above shall be construed as a reference to subsection (6)(e) above; and

(c) for any reference to the coming to an end of the former tenancy there shall be substituted a reference to the date of the predecessor's death.

(10) If and so long as a dwelling-house is subject to an assured tenancy to which the successor has become entitled by succession, section 7 above and Schedule 2 to this Act shall have effect subject to the modifications in Part III of Schedule 4 to this Act; and in that Part "the predecessor" and "the successor" have the same meaning as in this section.

**Textual Amendments**

**F182** Words in s. 39(7) inserted (28.2.1997) by 1996 c. 52, s. 104, **Sch. 8 para. 2(8)**; S.I. 1997/225, **art. 2** (with Sch.)

**Marginal Citations**

**M23** 1977 c. 42.

**M24** 1976 c. 80.

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## CHAPTER VI

### GENERAL PROVISIONS

**40 Jurisdiction of county courts.**

(1) **[**[F183]The county court**]** shall have jurisdiction to hear and determine any question arising under any provision of—

(a) Chapters I to III and V above, or

(b) sections 27 and 28 above,

other than a question falling within the jurisdiction of **[**[F184]the appropriate tribunal**]** by virtue of any such provision.

[F185](2) . . . . . .

(3) Where any proceedings under any provision mentioned in subsection (1) above are being taken in **[**[F186]the county court**]**, the court shall have jurisdiction to hear and determine any other proceedings joined with those proceedings, notwithstanding that, apart from this subsection, those other proceedings would be outside the court's jurisdiction.

**[**[F187](4) If any person takes any proceedings under any provision mentioned in subsection (1) above in the High Court, he shall not be entitled to recover any more costs of those proceedings than those to which he would have been entitled if the proceedings had been taken in **[**[F188]the county court**]**: and in such a case the taxing master shall have the same power of directing on what county court scale costs are to be allowed, and of allowing any item of costs, as the judge would have had if the proceedings had been taken in **[**[F188]the county court**]**.

(5) Subsection (4) above shall not apply where the purpose of taking the proceedings in the High Court was to enable them to be joined with any proceedings already pending before that court (not being proceedings taken under any provision mentioned in subsection (1) above).**]**

**Textual Amendments**

**F183** Words in s. 40(1) substituted (22.4.2014) by Crime and Courts Act 2013 (c. 22), s. 61(3), **Sch. 9 para. 52**; S.I. 2014/954, art. 2(c) (with art. 3) (with transitional provisions and savings in S.I. 2014/956, arts. 3-11)

**F184** Words in s. 40(1) substituted (1.7.2013) by The Transfer of Tribunal Functions Order 2013 (S.I. 2013/1036), art. 1, **Sch. 1 para. 89** (with Sch. 3)

**F185** S. 40(2) omitted (1.7.1991) by virtue of S.I. 1991/724, art. 2(8), **Sch**edule Pt.I

**F186** Words in s. 40(3) substituted (22.4.2014) by Crime and Courts Act 2013 (c. 22), s. 61(3), **Sch. 9 para. 52**; S.I. 2014/954, art. 2(c) (with art. 3) (with transitional provisions and savings in S.I. 2014/956, arts. 3-11)

**F187** S. 40(4)(5) repealed (*prosp.*) by Courts and Legal Services Act 1990 (c. 41, SIF 76:1), ss. 124(3), 125(7), **Sch. 20**

**F188** Words in s. 40(4) substituted (22.4.2014) by Crime and Courts Act 2013 (c. 22), s. 61(3), **Sch. 9 para. 52**; S.I. 2014/954, art. 2(c) (with art. 3) (with transitional provisions and savings in S.I. 2014/956, arts. 3-11)

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

**C17** S. 40 extended (1.7.1991) by S.I. 1991/724, **art.2(1)(o)**

## 41 Rent assessment committees: procedure and information powers.

[F189](1) . . . . . .

(2) The rent assessment committee to whom a matter is referred under Chapter I or Chapter II above may by notice in the prescribed form served on the landlord or the tenant require him to give to the committee, within such period of not less than fourteen days from the service of the notice as may be specified in the notice, such information as they may reasonably require for the purposes of their functions.

(3) If any person fails without reasonable excuse to comply with a notice served on him under subsection (2) above, he shall be liable on summary conviction to a fine not exceeding level 3 on the standard scale.

(4) Where an offence under subsection (3) above committed by a body corporate is proved to have been committed with the consent or connivance of, or to be attributable to any neglect on the part of, any director, manager or secretary or other similar officer of the body corporate or any person who was purporting to act in any such capacity, he as well as the body corporate shall be guilty of that offence and shall be liable to be proceeded against and punished accordingly.

**Textual Amendments**

**F189** S. 41(1) repealed (2.9.1993) by 1993 c. 28, s. 187(2), **Sch.22**; S.I. 1993/2134, **arts. 2**,3

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

**C18** S. 41(2)–(4) applied by Local Government and Housing Act 1989 (c. 42, SIF 75:1), s. 186, Sch. 10 paras. 12(1), 21, **22**

## [41A [F190] Amounts attributable to services.

In order to assist authorities to give effect to the housing benefit scheme under Part VII of the Social Security Contributions and Benefits Act 1992**[**[F191] or to assist the Secretary of State in the administration of universal credit**]**, where a rent is determined under section 14 or 22 above, the **[**[F192]appropriate tribunal**]** shall note in their determination the amount (if any) of the rent which, in the opinion of the **[**[F193]tribunal**]**, is fairly attributable to the provision of services, except where that amount is in their opinion negligible; and the amount so noted may be included in the information specified in an order under section 42 **[**[F194]or 42A**]** below.**]**

**Textual Amendments**

**F190** S. 41A added (1.7.1992) by Social Security (Consequential Provisions) Act 1992 (c. 6), ss. 4, 7(2), **Sch. 2 para. 103**

**F191** Words in s. 41A inserted (29.4.2013) by The Universal Credit (Consequential, Supplementary, Incidental and Miscellaneous Provisions) Regulations 2013 (S.I. 2013/630), regs. 1(2), **6**

**F192** Words in s. 41A substituted (1.7.2013) by The Transfer of Tribunal Functions Order 2013 (S.I. 2013/1036), art. 1, **Sch. 1 para. 90(a)** (with Sch. 3)

**F193** Word in s. 41A substituted (1.7.2013) by The Transfer of Tribunal Functions Order 2013 (S.I. 2013/1036), art. 1, **Sch. 1 para. 90(b)** (with Sch. 3)

**F194** Words in s. 41A inserted (1.7.2013) by The Transfer of Tribunal Functions Order 2013 (S.I. 2013/1036), art. 1, **Sch. 1 para. 90(c)** (with Sch. 3)

## [41B [F195] Provision of information as to exemption from council tax

A billing authority within the meaning of Part I of the Local Government Finance Act 1992 shall, if so requested in writing by a rent officer or **[**[F196]the appropriate tribunal**]** in connection with his or their functions under any enactment, inform the rent officer or **[**[F196]the appropriate tribunal**]** in writing whether or not a particular dwelling (within the meaning of Part I of the Local Government Finance Act 1992) is, or was at any time specified in the request, an exempt dwelling for the purposes of that Part of that Act.**]**

**Textual Amendments**

**F195** S. 41B inserted (23.4.1993) by S.I. 1993/651, art. 2(1), **Sch. 1 para.18** (as amended (23.4.1993) by S.I. 1993/1120, **art.2**).

**F196** Words in s. 41B substituted (1.7.2013) by The Transfer of Tribunal Functions Order 2013 (S.I. 2013/1036), art. 1, **Sch. 1 para. 91** (with Sch. 3)

## 42 Information as to determinations of rents [[F197]in Wales].

(1) The President of **[**[F198]the**]** rent assessment panel shall keep and make publicly available, in such manner as is specified in an order made by the **[**[F199]Welsh Ministers**]**, such information as may be so specified with respect to rents under assured tenancies and assured agricultural occupancies which have been the subject of references or applications to, or determinations by, rent assessment committees **[**[F200]in areas in Wales**]**.

(2) A copy of any information certified under the hand of an officer duly authorised by the President of the rent assessment panel [F201]... shall be receivable in evidence in any court and in any proceedings.

(3) An order under subsection (1) above—

(a) may prescribe the fees to be charged for the supply of a copy, including a certified copy, of any of the information kept by virtue of that subsection; and

(b) may make different provision with respect to different cases or descriptions of case, including different provision for different areas.

(4) The power to make an order under subsection (1) above shall be exercisable by statutory instrument which shall be subject to annulment in pursuance of a resolution of **[**[F202]the National Assembly for Wales**]**.

**Textual Amendments**

**F197** Words in s. 42 inserted (1.7.2013) by The Transfer of Tribunal Functions Order 2013 (S.I. 2013/1036), art. 1, **Sch. 1 para. 92(a)** (with Sch. 3)

**F198** Word in s. 42(1) substituted (1.7.2013) by The Transfer of Tribunal Functions Order 2013 (S.I. 2013/1036), art. 1, **Sch. 1 para. 92(b)(i)** (with Sch. 3)

**F199** Words in s. 42(1) substituted (1.7.2013) by The Transfer of Tribunal Functions Order 2013 (S.I. 2013/1036), art. 1, **Sch. 1 para. 92(b)(ii)** (with Sch. 3)

**F200** Words in s. 42(1) inserted (1.7.2013) by The Transfer of Tribunal Functions Order 2013 (S.I. 2013/1036), art. 1, **Sch. 1 para. 92(b)(iii)** (with Sch. 3)

**F201** Word in s. 42(2) omitted (1.7.2013) by virtue of The Transfer of Tribunal Functions Order 2013 (S.I. 2013/1036), art. 1, **Sch. 1 para. 92(c)** (with Sch. 3)

**F202** Words in s. 42(4) substituted (1.7.2013) by The Transfer of Tribunal Functions Order 2013 (S.I. 2013/1036), art. 1, **Sch. 1 para. 92(d)** (with Sch. 3)

## [F203 42A. Information as to determination of rents in England

(1) The Chamber President of the Property Chamber of the First-tier Tribunal shall keep and make publicly available, in such manner as may be specified in an order made by the Lord Chancellor, such information as may be specified in an order made by the Secretary of State with respect to rents under assured tenancies and assured agricultural occupancies which have been the subject of references or applications to, or determinations by—

(a) rent assessment committees in England,

(b) the First-tier Tribunal, or

(c) the Upper Tribunal.

(2) A copy of any information certified by a member of staff appointed by the Lord Chancellor and duly authorised by the Chamber President shall be receivable in evidence in any court and in any proceedings.

(3) An order made by the Lord Chancellor under subsection (1) may prescribe the fees to be charged for the supply of a copy, including a certified copy, of any of the information kept by virtue that subsection.

(4) The power to make an order under subsection (1) shall be exercisable by statutory instrument which shall be subject to annulment in pursuance of a resolution of either House of Parliament.]

**Textual Amendments**

**F203** S. 42A inserted (1.7.2013) by The Transfer of Tribunal Functions Order 2013 (S.I. 2013/1036), art. 1, **Sch. 1 para. 93** (with Sch. 3)

## 43 Powers of local authorities for purposes of giving information.

In section 149 of the M25 Rent Act 1977 (which, among other matters, authorises local authorities to publish information for the benefit of landlords and tenants with respect to their rights and duties under certain enactments), in subsection (1)(a) after sub-paragraph (iv) there shall be inserted—

"(v) Chapters I to III of Part I of the Housing Act 1988".

**Marginal Citations**

**M25** 1977 c. 42.

***Status:*** *Point in time view as at 28/08/2020.*
***Changes to legislation:*** *Housing Act 1988, Part I is up to date with all changes known to be in force on or before 14 June 2024. There are changes that may be brought into force at a future date. Changes that have been made appear in the content and are referenced with annotations. (See end of Document for details)*

## 44 Application to Crown Property.

(1) Subject to paragraph 11 of Schedule 1 to this Act and subsection (2) below, Chapters I to IV above apply in relation to premises in which there subsists, or at any material time subsisted, a Crown interest as they apply in relation to premises in relation to which no such interest subsists or ever subsisted.

(2) In Chapter IV above—

(a) sections 27 and 28 do not bind the Crown; and

(b) the remainder binds the Crown to the extent provided for in section 10 of the [M26]Protection from Eviction Act 1977.

(3) In this section "Crown interest" means an interest which belongs to Her Majesty in right of the Crown or of the Duchy of Lancaster or to the Duchy of Cornwall, or to a government department, or which is held in trust for Her Majesty for the purposes of a government department.

(4) Where an interest belongs to Her Majesty in right of the Duchy of Lancaster, then, for the purposes of Chapters I to IV above, the Chancellor of the Duchy of Lancaster shall be deemed to be the owner of the interest.

**Marginal Citations**

**M26** 1977 c. 43.

## 45 Interpretation of Part I.

(1) In this Part of this Act, except where the context otherwise requires,—

**[**[F204]"appropriate tribunal" means—

(a) in relation to a dwelling-house in England, the First-tier Tribunal or, where determined by or under Tribunal Procedure Rules, the Upper Tribunal;

(b) in relation to a dwelling-house in Wales, a rent assessment committee;**]**

"dwelling-house" may be a house or part of a house;

"fixed term tenancy" means any tenancy other than a periodic tenancy;

"fully mutual housing association" has the same meaning as in Part I of the [M27]Housing Associations Act 1985;

"landlord" includes any person from time to time deriving title under the original landlord and also includes, in relation to a dwelling-house, any person other than a tenant who is, or but for the existence of an assured tenancy would be, entitled to possession of the dwelling-house;

"let" includes "sub-let";

"prescribed" means prescribed by regulations made by the Secretary of State by statutory instrument;

"rates" includes water rates and charges but does not include an owner's drainage rate, as defined in section 63(2)(a) of the [M28]Land Drainage Act 1976;

"secure tenancy" has the meaning assigned by section 79 of the [M29]Housing Act 1985;

"statutory periodic tenancy" has the meaning assigned by section 5(7) above;

***Status:*** *Point in time view as at 28/08/2020.*
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"tenancy" includes a sub-tenancy and an agreement for a tenancy or sub-tenancy; and

"tenant" includes a sub-tenant and any person deriving title under the original tenant or sub-tenant.

(2) Subject to paragraph 11 of Schedule 2 to this Act, any reference in this Part of this Act to the beginning of a tenancy is a reference to the day on which the tenancy is entered into or, if it is later, the day on which, under the terms of any lease, agreement or other document, the tenant is entitled to possession under the tenancy.

(3) Where two or more persons jointly constitute either the landlord or the tenant in relation to a tenancy, then, except where this Part of this Act otherwise provides, any reference to the landlord or to the tenant is a reference to all the persons who jointly constitute the landlord or the tenant, as the case may require.

(4) For the avoidance of doubt, it is hereby declared that any reference in this Part of this Act (however expressed) to a power for a landlord to determine a tenancy does not include a reference to a power of re-entry or forfeiture for breach of any term or condition of the tenancy.

(5) Regulations under subsection (1) above may make different provision with respect to different cases or descriptions of case, including different provision for different areas.

**Textual Amendments**

**F204** Words in s. 45(1) inserted (1.7.2013) by The Transfer of Tribunal Functions Order 2013 (S.I. 2013/1036), art. 1, **Sch. 1 para. 94** (with Sch. 3)

**Marginal Citations**

**M27** 1985 c. 69.
**M28** 1976 c. 70.
**M29** 1985 c. 68.

**Status:**
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**Changes to legislation:**
Housing Act 1988, Part I is up to date with all changes known to be in force on or before 14 June 2024. There are changes that may be brought into force at a future date. Changes that have been made appear in the content and are referenced with annotations.