



# Housing Act 1988

## 1988 CHAPTER 50

### PART I

#### RENTED ACCOMMODATION

#### CHAPTER I

#### ASSURED TENANCIES

#### *Security of tenure*

### 5 Security of tenure.

[<sup>F1</sup>(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), or
  - (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,
- 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 [<sup>F2</sup>of the kind mentioned in subsection (1)(a) or (b) or any other order of the court], or
- (b) a surrender or other action on the part of the tenant,

*Status: Point in time view as at 20/05/2009.*

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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
  - (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.

[<sup>F3</sup>(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.

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- (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

- F1** 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}
- F2** 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
- F3** S. 5(5A) inserted (18.1.2005) by [Housing Act 2004 \(c. 34\)](#), ss. [222\(1\)\(2\)](#), 270(3)(a)

## 6 Fixing of terms of statutory periodic tenancy.

- (1) In this section, in relation to a statutory periodic tenancy,—
- “the former tenancy” means the fixed term tenancy on the coming to an end of which the statutory periodic tenancy arises; and
  - “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,—
- 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 a rent assessment committee under subsection (4) below; and
  - 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 a rent assessment committee, the committee 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 the committee’s opinion, might reasonably be expected to be found in an assured periodic tenancy of the dwelling-house concerned, being a tenancy—
- which begins on the coming to an end of the former tenancy; and
  - 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 the committee’s consideration.

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- (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 a rent assessment committee 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 a rent assessment committee, then, unless the landlord and the tenant otherwise agree, with effect from such date as the committee may direct—
  - (a) the terms determined by the committee 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 committee;
 but for the purposes of paragraph (b) above the committee 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 a rent assessment committee 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.

#### **[<sup>F4</sup>6A Demotion because of anti-social behaviour**

- (1) This section applies to an assured tenancy if the landlord is a registered social landlord.
- (2) The landlord may apply to a 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;
  - (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—
  - (a) that the tenant or a person residing in or visiting the dwelling-house has engaged or has threatened to engage in conduct to which section 153A or 153B of the Housing Act 1996 (anti-social behaviour or use of premises for unlawful purposes) applies, and
  - (b) that it is reasonable to make the order.
- (5) The court must not entertain proceedings for a demotion order unless—

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- (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.
- (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

- F4** 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)

## 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 <sup>M1</sup>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 [<sup>F5</sup>subsections (5A) and (6)] below, the court shall make an order for possession.

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- (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 [<sup>F6</sup>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.
- [<sup>F7</sup>(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 and 5 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—
- (a) the ground for possession is Ground 2 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).
- (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) [<sup>F8</sup>in accordance with section 5(1A)].

#### Textual Amendments

- F5** Words substituted by [Local Government and Housing Act 1989 \(c. 42, SIF 75:1\)](#), s. 194, **Sch. 11 para. 101**
- F6** Words substituted by [Local Government and Housing Act 1989 \(c. 42, SIF 75:1\)](#), s. 194, **Sch. 11 para. 101(2)**
- F7** S. 7(5A) inserted by [Local Government and Housing Act 1989 \(c. 42, SIF 75:1\)](#), s. 194, **Sch. 11 para. 101(3)**
- F8** 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

- M1** [1925 c. 20.](#)

## 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—

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- (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 [F<sup>9</sup>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 [F<sup>10</sup>in accordance with subsections (4) to (4B) below]; and
  - (c) those proceedings will not begin later than twelve months from the date of service of the notice.
- [F<sup>11</sup>(4) If a notice under this section specifies in accordance with subsection (3)(a) above Ground 14 in Schedule 2 to this Act (whether with or without other grounds), the date specified in the notice as mentioned in subsection (3)(b) above shall not be earlier than 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 14), the date specified in the notice as mentioned in subsection (3)(b) above shall not be earlier than—
- (a) two months 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.
- (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 two weeks from the date of the service of the notice.]
- (5) The court may not exercise the power conferred by subsection (1)(b) above if the landlord seeks to recover possession on Ground 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

**F9** 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.)

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- F10** 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.)
- F11** 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.)

**[<sup>F12</sup>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**

- F12** 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,
 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



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tenant of arrears of rent (if any) and rent<sup>F13</sup> . . . 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)<sup>F14</sup> . . . . .

(5A)<sup>F14</sup> . . . . .

(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

**F13** 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}

**F14** 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}

#### [<sup>F159A</sup> **Proceedings for possession: 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

**F15** 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.](#))

### 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

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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.

## **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.

**Status:**

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