Housing Act 1988

1988 CHAPTER 50

PART I

RENTED ACCOMMODATION

CHAPTER II

ASSURED SHORTHOLD TENANCIES

[F1 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

F1 S. 19A inserted (28.2.1997) by 1996 c. 52, **s. 96(1)**; S.I. 1997/225, **art. 2** (with Sch.)

[F2 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

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(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 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.

[[F3](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.

[F4](7) . . . . . .

Textual Amendments

F2 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.)

F3 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.)

F4 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.)

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[F5 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

F5 S. 20A inserted (28.2.1997) by 1996 c. 52, **s. 97**; S.I. 1997/225, **art. 2** (with Sch.)

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VALID FROM 30/06/2004

[[F6]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 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.

(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.**]**

Textual Amendments

F6 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)**

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 **[**[F7]an 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 two months' notice **[**[F8]in writing**]** stating that he requires possession of the dwelling-house.

(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

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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) on the day on which the order takes effect.

(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 **[**[F9]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 two 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.

[[F10](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.

[F11](5A) **[** Subsection (5) above does not apply to an assured shorthold tenancy to which section 20B (demoted assured shorthold tenancies) applies.**]**

(6) In subsection (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.**]**

Textual Amendments

F7 Words inserted by Local Government and Housing Act 1989 (c. 42, SIF 75:1), s. 194, **Sch. 11 para. 103**

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F8 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)

F9 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)

F10 S. 21(5)-(7) inserted (28.2.1997) by 1996 c. 52, **s. 99**; S.I. 1997/225, **art. 2** (with Sch.)

F11 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)**

22 Reference of excessive rents to rent assessment committee.

(1) Subject to section 23 and subsection (2) below, the tenant under an assured shorthold tenancy [F12]. . . may make an application in the prescribed form to a rent assessment committee for a determination of the rent which, in the committee'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; [F13]. . .

[[F14](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 a rent assessment committee under subsection (1) above with respect to the rent under an assured shorthold tenancy, the committee 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, a rent assessment committee make a determination of a rent for an assured shorthold tenancy—

(a) the determination shall have effect from such date as the committee 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.

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[[F15](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 a rent assessment committee 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.**]**

[[F16](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

F12 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.)

F13 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**

F14 S. 22(2)(aa) inserted (28.2.1997) by 1996 c. 52, **s. 100(2)**; S.I. 1997/225, **art. 2** (with Sch.)

F15 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.)

F16 S. 22(6) inserted (28.2.1997) by 1996 c. 52, **s. 100(3)**; S.I. 1997/225, **art. 2** (with Sch.)

23 Termination of rent assessment committee'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.

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