



Housing Act 1988

1988 CHAPTER 50

PART I

RENTED ACCOMMODATION

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 ^{M1}Rent Act 1977 or Case 1 in Schedule 4 to the ^{M2}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

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required security and, accordingly, directed that the tenancy would be a protected tenancy; or

- [^{F1}(d) it is a tenancy under which the interest of the landlord was at the time the tenancy was granted held by [^{F2}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 [^{F3}, 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 ^{M3}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 ^{M4}Rent Act 1977.

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Textual Amendments

- F1** S. 34(1)(d) substituted by Local Government and Housing Act 1989 (c. 42, SIF 75:1), s. 194, **Sch. 11 para. 104**
- F2** 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)
- F3** 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.)
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Marginal Citations

- M1** 1977 c. 42.
- M2** 1976 c. 80.
- M3** 1976 c. 80.
- M4** 1977 c. 42.

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Changes and effects yet to be applied to :

- specified provision(s) savings for amendments by 2018 anaw 1, s. 6, Sch. 6 by [S.I. 2019/110 reg. 5](#)

Changes and effects yet to be applied to the whole Act associated Parts and Chapters:

- Act savings and transitional provisions for amendments by S.I. 2022/1166 by [S.I. 2022/1172 Regulations](#)