



Housing Act 1988

1988 CHAPTER 50

PART I

RENTED ACCOMMODATION

CHAPTER V

PHASING OUT OF RENT ACTS AND OTHER TRANSITIONAL PROVISIONS

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 ^{M1}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

Status: Point in time view as at 01/10/1998. This version of this provision has been superseded.

Changes to legislation: Housing Act 1988, Section 35 is up to date with all changes known to be in force on or before 17 January 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)

- [^{F1}(d) it is a tenancy under which the interest of the landlord was at the time the tenancy was granted held by a new town 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, a [^{F2}registered social landlord, 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 ^{M2}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 ^{M3}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) [^{F3}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 new town corporation or an urban development corporation, all within the meaning of section 80 of the Housing Act 1985 [^{F4}or a housing action trust established under Part III of this Act]; 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 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
 - (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, the Housing Corporation or Housing for Wales, nothing in the preceding provisions

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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 ^{M4}Housing Act 1985.

Textual Amendments

- F1** S. 35(2)(d) substituted by Local Government and Housing Act 1989 (c. 42, SIF 75:1), s. 194, **Sch. 11 para. 105(1)**
- F2** Words in s. 35(3) substituted (1.10.1996) by S.I. 1996/2325, art. 5(1), **Sch. 2 para. 18(2)**
- F3** Words inserted by Local Government and Housing Act 1989 (c. 42, SIF 75:1), s. 194, **Sch. 11 para. 105(2)**
- F4** 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**

Marginal Citations

- M1** 1985 c. 68.
- M2** 1985 c. 68.
- M3** 1977 c. 42.
- M4** 1985 c.68.

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