



# Housing Act 1996

## 1996 CHAPTER 52

### PART III

#### LANDLORD AND TENANT

#### CHAPTER I

#### TENANTS' RIGHTS

##### *Forfeiture*

#### **81 Restriction on termination of tenancy for failure to pay service charge.**

- (1) A landlord may not, in relation to premises let as a dwelling, exercise a right of re-entry or forfeiture for failure to pay a service charge unless the amount of the service charge—
  - (a) is agreed or admitted by the tenant, or
  - (b) has been the subject of determination by a court or by an arbitral tribunal in proceedings pursuant to an arbitration agreement (within the meaning of Part I of the <sup>M1</sup>Arbitration Act 1996).
- (2) Where the amount is the subject of determination, the landlord may not exercise any such right of re-entry or forfeiture until after the end of the period of 14 days beginning with the day after that on which the decision of the court or arbitral tribunal is given.
- (3) For the purposes of this section the amount of a service charge shall be taken to be determined when the decision of the court or arbitral tribunal is given, notwithstanding the possibility of an appeal or other legal challenge to the decision.
- (4) The reference in subsection (1) to premises let as a dwelling does not include premises let on—
  - (a) a tenancy to which Part II of the <sup>M2</sup>Landlord and Tenant Act 1954 applies (business tenancies),

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- (b) a tenancy of an agricultural holding within the meaning of the <sup>M3</sup>Agricultural Holdings Act 1986 in relation to which that Act applies, or
  - (c) a farm business tenancy within the meaning of the <sup>M4</sup>Agricultural Tenancies Act 1995.
- (5) In this section “service charge” means a service charge within the meaning of section 18(1) of the <sup>M5</sup>Landlord and Tenant Act 1985, other than one excluded from that section by section 27 of that Act (rent of dwelling registered and not entered as variable).
- (6) Nothing in this section affects the exercise of a right of re-entry or forfeiture on other grounds.

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

**C1** S. 81 extended to Crown land (*prosp.*) by 2002 c. 15, ss. 172(f), 181(1)

**Marginal Citations**

**M1** 1996 c. 23.  
**M2** 1954 c. 56.  
**M3** 1986 c. 5.  
**M4** 1995 c. 8.  
**M5** 1985 c. 70.

**82 Notice under s.146 of the Law of Property Act 1925.**

- (1) Nothing in section 81 (restriction on termination of tenancy for failure to pay service charge) affects the power of a landlord to serve a notice under section 146(1) of the <sup>M6</sup>Law of Property Act 1925 (restrictions on and relief against forfeiture: notice of breach of covenant or condition).
- (2) But such a notice in respect of premises let as a dwelling and failure to pay a service charge is ineffective unless it complies with the following requirements.
- (3) It must state that section 81 applies and set out the effect of subsection (1) of that section.
- The Secretary of State may by regulations prescribe a form of words to be used for that purpose.
- (4) The information or words required must be in characters not less conspicuous than those used in the notice—
- (a) to indicate that the tenancy may be forfeited, or
  - (b) to specify the breach complained of,
- whichever is the more conspicuous.
- (5) In this section “premises let as a dwelling” and “service charge” have the same meaning as in section 81.
- (6) Regulations under this section—
- (a) shall be made by statutory instrument, and
  - (b) may make different provision for different cases or classes of case including different areas.

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**Marginal Citations**

**M6** 1925 c. 20.

*Service charges*

**83 Determination of reasonableness of service charges.**

(1) In section 19 of the <sup>M7</sup>Landlord and Tenant Act 1985 (limitation of service charges: reasonableness), after subsection (2) insert—

“(2A) A tenant by whom, or a landlord to whom, a service charge is alleged to be payable may apply to a leasehold valuation tribunal for a determination—

- (a) whether costs incurred for services, repairs, maintenance, insurance or management were reasonably incurred,
- (b) whether services or works for which costs were incurred are of a reasonable standard, or
- (c) whether an amount payable before costs are incurred is reasonable.

(2B) An application may also be made to a leasehold valuation tribunal by a tenant by whom, or landlord to whom, a service charge may be payable for a determination—

- (a) whether if costs were incurred for services, repairs, maintenance, insurance or management of any specified description they would be reasonable,
- (b) whether services provided or works carried out to a particular specification would be of a reasonable standard, or
- (c) what amount payable before costs are incurred would be reasonable.

(2C) No application under subsection (2A) or (2B) may be made in respect of a matter which—

- (a) has been agreed or admitted by the tenant,
- (b) under an arbitration agreement to which the tenant is a party is to be referred to arbitration, or
- (c) has been the subject of determination by a court or arbitral tribunal.”.

(2) In the Schedule to the Landlord and Tenant Act 1985, for paragraph 8 (right to challenge landlord’s choice of insurers) substitute—

“8 (1) This paragraph applies where a tenancy of a dwelling requires the tenant to insure the dwelling with an insurer nominated by the landlord.

(2) The tenant or landlord may apply to a county court or leasehold valuation tribunal for a determination whether—

- (a) the insurance which is available from the nominated insurer for insuring the tenant’s dwelling is unsatisfactory in any respect, or
- (b) the premiums payable in respect of any such insurance are excessive.

(3) No such application may be made in respect of a matter which—

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- (a) has been agreed or admitted by the tenant,
  - (b) under an arbitration agreement to which the tenant is a party is to be referred to arbitration, or
  - (c) has been the subject of determination by a court or arbitral tribunal.
- (4) On an application under this paragraph the court or tribunal may make—
- (a) an order requiring the landlord to nominate such other insurer as is specified in the order, or
  - (b) an order requiring him to nominate another insurer who satisfies such requirements in relation to the insurance of the dwelling as are specified in the order.
- (5) Any such order of a leasehold valuation tribunal may, with the leave of the court, be enforced in the same way as an order of a county court to the same effect.
- (6) An agreement by the tenant of a dwelling (other than an arbitration agreement) is void in so far as it purports to provide for a determination in a particular manner, or on particular evidence, of any question which may be the subject of an application under this paragraph.”
- (3) In the <sup>M8</sup>Landlord and Tenant Act 1985 before section 32 under the heading “*Supplementary provisions*” insert—

**“31A Jurisdiction of leasehold valuation tribunal.**

- (1) The jurisdiction conferred by this Act on a leasehold valuation tribunal is exercisable by a rent assessment committee constituted in accordance with Schedule 10 to the <sup>M9</sup>Rent Act 1977 which when so constituted for the purposes of exercising any such jurisdiction shall be known as a leasehold valuation tribunal.
- (2) The power to make regulations under section 74(1)(b) of the Rent Act 1977 (procedure of rent assessment committees) extends to prescribing the procedure to be followed in connection with any proceedings before a leasehold valuation tribunal under this Act.
- (3) Such regulations may, in particular, make provision—
  - (a) for securing consistency where numerous applications under this Act are or may be brought in respect of the same or substantially the same matters; and
  - (b) empowering a leasehold valuation tribunal to dismiss an application, in whole or in part, on the ground that it is frivolous or vexatious or otherwise an abuse of the process of the tribunal.
- (4) No costs incurred by a party in connection with proceedings under this Act before a leasehold valuation tribunal shall be recoverable by order of any court.
- (5) Paragraphs 2, 3 and 7 of Schedule 22 to the <sup>M10</sup>Housing Act 1980 (supplementary provisions relating to leasehold valuation tribunals: appeals and provision of information) apply to a leasehold valuation tribunal constituted for the purposes of this section.

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- (6) No appeal shall lie to the Lands Tribunal from a decision of a leasehold valuation tribunal under this Act without the leave of the leasehold valuation tribunal concerned or the Lands Tribunal.
- (7) On any such appeal—
  - (a) the Lands Tribunal may exercise any power available to the leasehold valuation tribunal in relation to the original matter, and
  - (b) an order of the Lands Tribunal may be enforced in the same way as an order of the leasehold valuation tribunal.

### **31B Leasehold valuation tribunal: applications and fees.**

- (1) The Secretary of State may make provision by order as to the form of, or the particulars to be contained in, an application made to a leasehold valuation tribunal under this Act.
- (2) The Secretary of State may make provision by order—
  - (a) requiring the payment of fees in respect of any such application, or in respect of any proceedings before, a leasehold valuation tribunal under this Act; and
  - (b) empowering a leasehold valuation tribunal to require a party to proceedings before it to reimburse any other party the whole or part of any fees paid by him.
- (3) The fees payable shall be such as may be specified in or determined in accordance with the order subject to this limit, that the fees payable in respect of any one application or reference by the court together with any proceedings before the tribunal arising out of that application or reference shall not exceed £500 or such other amount as may be specified by order of the Secretary of State.
- (4) An order under this section may make different provision for different cases or classes of case or for different areas.
- (5) An order may in particular—
  - (a) make different provision in relation to proceedings transferred to the tribunal from that applicable where an application was made to the tribunal, and
  - (b) provide for the reduction or waiver of fees by reference to the financial resources of the party by whom they are to be paid or met.
- (6) In the latter case the order may apply, subject to such modifications as may be specified in the order, any other statutory means-testing regime as it has effect from time to time.
- (7) An order under this section shall be made by statutory instrument.
- (8) No order altering the limit under subsection (3) shall be made unless a draft of the order has been laid before and approved by a resolution of each House of Parliament.
- (9) Any other order under this section, unless it contains only such provision as is mentioned in subsection (1), shall be subject to annulment in pursuance of a resolution of either House of Parliament.

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### 31C Transfer of cases from county court.

- (1) Where in any proceedings before a court there falls for determination a question falling within the jurisdiction of a leasehold valuation tribunal under this Act, the court—
    - (a) may by order transfer to such a tribunal so much of the proceedings as relate to the determination of that question, and
    - (b) may then dispose of all or any remaining proceedings, or adjourn the disposal of all or any of such proceedings, pending the determination of that question by the tribunal, as it thinks fit.
  - (2) When the tribunal has determined the question, the court may give effect to the determination in an order of the court.
  - (3) Any such order shall be treated as a determination by the court for the purposes of section 81 of the Housing Act 1996 (restriction on termination of tenancy for failure to pay service charge).
  - (4) Rules of court may prescribe the procedure to be followed in the court in connection with or in consequence of a transfer under this section.”
- (4) For section 20C of the <sup>M11</sup>Landlord and Tenant Act 1985 (limitation of service charges: costs of court proceedings) substitute—

#### “20C Limitation of service charges: costs of proceedings.

- (1) A tenant may make an application for an order that all or any of the costs incurred, or to be incurred, by the landlord in connection with proceedings before a court or leasehold valuation tribunal, or the Lands Tribunal, or in connection with arbitration proceedings, are not to be regarded as relevant costs to be taken into account in determining the amount of any service charge payable by the tenant or any other person or persons specified in the application.
  - (2) The application shall be made—
    - (a) in the case of court proceedings, to the court before which the proceedings are taking place or, if the application is made after the proceedings are concluded, to a county court;
    - (b) in the case of proceedings before a leasehold valuation tribunal, to the tribunal before which the proceedings are taking place or, if the application is made after the proceedings are concluded, to any leasehold valuation tribunal;
    - (c) in the case of proceedings before the Lands Tribunal, to the tribunal;
    - (d) in the case of arbitration proceedings, to the arbitral tribunal or, if the application is made after the proceedings are concluded, to a county court.
  - (3) The court or tribunal to which the application is made may make such order on the application as it considers just and equitable in the circumstances.”
- (5) In section 38 of the <sup>M12</sup>Landlord and Tenant Act 1985 (minor definitions), at the appropriate place insert—

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““arbitration agreement”, “arbitration proceedings” and “arbitral tribunal” have the same meaning as in Part I of the <sup>M13</sup>Arbitration Act 1996;”.

- (6) In section 39 of that Act (index of defined expressions), at the appropriate place insert—

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“arbitration agreement, arbitration proceedings and arbitral tribunal section 38”

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**Commencement Information**

- I1** S. 83 wholly in force 11.8.1998; s. 83 not in force at Royal Assent see s. 232(1)-(3); s. 83(3) in force for certain purposes at 23.8.1996 by [S.I. 1996/2212, art. 2\(1\)](#); s. 83 in force at 1.9.1997 to the extent not already in force by [S.I. 1997/1851, art. 2](#) (subject to the saving in [Sch. para. 1](#)); s. 83 in force at 11.8.1998 to the extent that it does not, because of [Sch. para. 1](#), already have effect by [S.I. 1998/1768, art. 2](#) (subject to [art. 3](#)).

**Marginal Citations**

- M7** 1985 c. 70.  
**M8** 1985 c. 70.  
**M9** 1977 c. 42.  
**M10** 1980 c. 51.  
**M11** 1985 c. 70.  
**M12** 1985 c. 70.  
**M13** 1996 c. 23.

**84 Right to appoint surveyor to advise on matters relating to service charges.**

- (1) A recognised tenants’ association may appoint a surveyor for the purposes of this section to advise on any matters relating to, or which may give rise to, service charges payable to a landlord by one or more members of the association.

The provisions of Schedule 4 have effect for conferring on a surveyor so appointed rights of access to documents and premises.

- (2) A person shall not be so appointed unless he is a qualified surveyor.

For this purpose “qualified surveyor” has the same meaning as in section 78(4)(a) of the <sup>M14</sup>Leasehold Reform, Housing and Urban Development Act 1993 (persons qualified for appointment to carry out management audit).

- (3) The appointment shall take effect for the purposes of this section upon notice in writing being given to the landlord by the association stating the name and address of the surveyor, the duration of his appointment and the matters in respect of which he is appointed.
- (4) An appointment shall cease to have effect for the purposes of this section if the association gives notice in writing to the landlord to that effect or if the association ceases to exist.
- (5) A notice is duly given under this section to a landlord of any tenants if it is given to a person who receives on behalf of the landlord the rent payable by those tenants; and

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a person to whom such a notice is so given shall forward it as soon as may be to the landlord.

(6) In this section—

“recognised tenants’ association” has the same meaning as in the provisions of the <sup>M15</sup>Landlord and Tenant Act 1985 relating to service charges (see section 29 of that Act); and

“service charge” means a service charge within the meaning of section 18(1) of that Act, other than one excluded from that section by section 27 of that Act (rent of dwelling registered and not entered as variable).

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

**C2** S. 84 extended to Crown land (*prosp.*) by 2002 c. 15, ss. 172(1)(g), 181(1)

S. 84 modified (*prosp.*) by 2002 c. 15, ss. 102(1), 181(1), **Sch. 7 para. 15(1)**

**C3** S. 84(5) applied (with modifications) (*prosp.*) by 2002 c. 15, ss. 102(1), 181(1), **Sch. 7 para. 15(2)**

**Marginal Citations**

**M14** 1993 c. 28.

**M15** 1985 c. 70.

*Appointment of manager*

**85 Appointment of manager by the court.**

(1) Section 24 of the <sup>M16</sup>Landlord and Tenant Act 1987 (appointment of manager by the court) is amended as follows.

(2) In subsection (2) (circumstances in which order may be made), in paragraph (a) (breach of obligation by landlord), omit sub-paragraph (ii) (requirement that circumstances likely to continue).

(3) In that subsection, after paragraph (a), and before the word “or” following that paragraph, insert—

“(ab) where the court is satisfied—

(i) that unreasonable service charges have been made, or are proposed or likely to be made, and

(ii) that it is just and convenient to make the order in all the circumstances of the case;

(ac) where the court is satisfied—

(i) that the landlord has failed to comply with any relevant provision of a code of practice approved by the Secretary of State under section 87 of the <sup>M17</sup>Leasehold Reform, Housing and Urban Development Act 1993 (codes of management practice), and

(ii) that it is just and convenient to make the order in all the circumstances of the case;”.

(4) After that subsection insert—

“(2A) For the purposes of subsection (2)(ab) a service charge shall be taken to be unreasonable—



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- (a) if the amount is unreasonable having regard to the items for which it is payable,
- (b) if the items for which it is payable are of an unnecessarily high standard, or
- (c) if the items for which it is payable are of an insufficient standard with the result that additional service charges are or may be incurred.

In that provision and this subsection “service charge” means a service charge within the meaning of section 18(1) of the <sup>M18</sup>Landlord and Tenant Act 1985, other than one excluded from that section by section 27 of that Act (rent of dwelling registered and not entered as variable).”.

- (5) The above amendments apply to applications for an order under section 24 of the <sup>M19</sup>Landlord and Tenant Act 1987 which are made after this section comes into force.

In relation to any such application the reference in the inserted subsection (2)(ab) to service charges which have been made includes services charges made before that date.

- (6) After subsection (9) insert—

“(9A) The court shall not vary or discharge an order under subsection (9) on a landlord’s application unless it is satisfied—

- (a) that the variation or discharge of the order will not result in a recurrence of the circumstances which led to the order being made, and
- (b) that it is just and convenient in all the circumstances of the case to vary or discharge the order.”.

#### **Marginal Citations**

**M16** 1987 c. 31.

**M17** 1993 c. 28.

**M18** 1985 c. 70.

**M19** 1987 c. 31.

## **86 Appointment of manager: transfer of jurisdiction to leasehold valuation tribunal.**

- (1) Part II of the Landlord and Tenant Act 1987 (appointment of managers by the court) is amended as follows for the purpose of transferring to a leasehold valuation tribunal the jurisdiction of the court under that Part.
- (2) In the following contexts for “the court”, in the first (or only) place where it occurs, substitute “ a leasehold valuation tribunal ”: section 21(1), section 22(2)(b), section 22(3), section 23(1), section 24(1), (2), (9) and (10); and in every other context in those sections, except section 21(6), for “the court” substitute “ the tribunal ”.
- (3) In section 21(6) (exclusion of application under inherent jurisdiction of court) for “any jurisdiction existing apart from this Act” substitute “ any jurisdiction ”.
- (4) In section 23(2)—
  - (a) for “Rules of court” substitute “ Procedure regulations ”, and

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(b) in paragraph (a), for “rules” substitute “ regulations ”.

(5) After section 24 insert—

**“24A Jurisdiction of leasehold valuation tribunal.**

- (1) The jurisdiction conferred by this Part on a leasehold valuation tribunal is exercisable by a rent assessment committee constituted in accordance with Schedule 10 to the <sup>M20</sup>Rent Act 1977 which when so constituted for the purposes of exercising any such jurisdiction shall be known as a leasehold valuation tribunal.
- (2) The power to make regulations under section 74(1)(b) of the Rent Act 1977 (procedure of rent assessment committees) extends to prescribing the procedure to be followed in connection with any proceedings before a leasehold valuation tribunal under this Part.

Such regulations are referred to in this Part as “procedure regulations”.

- (3) Procedure regulations may, in particular, make provision—
  - (a) for securing consistency where numerous applications under this Part are or may be brought in respect of the same or substantially the same matters; and
  - (b) empowering a leasehold valuation tribunal to dismiss an application, in whole or in part, on the ground that it is frivolous or vexatious or otherwise an abuse of the process of the tribunal.
- (4) Any order made by a leasehold valuation tribunal under this Part may, with the leave of the court, be enforced in the same way as an order of the county court.
- (5) No costs incurred by a party in connection with proceedings under this Part before a leasehold valuation tribunal shall be recoverable by order of any court.
- (6) Paragraphs 2, 3 and 7 of Schedule 22 to the <sup>M21</sup>Housing Act 1980 (supplementary provisions relating to leasehold valuation tribunals: appeals and provision of information) apply to a leasehold valuation tribunal constituted for the purposes of this section.
- (7) No appeal shall lie to the Lands Tribunal from a decision of a leasehold valuation tribunal under this Part without the leave of the leasehold valuation tribunal concerned or the Lands Tribunal.
- (8) On an appeal to the Lands Tribunal from a decision of a leasehold valuation tribunal under this Part—
  - (a) the Lands Tribunal may exercise any power available to the leasehold valuation tribunal in relation to the original matter, and
  - (b) an order of the Lands Tribunal may be enforced in the same way as an order of the leasehold valuation tribunal.

**24B Leasehold valuation tribunal: applications and fees.**

- (1) The Secretary of State may make provision by order as to the form of, or the particulars to be contained in, an application made to a leasehold valuation tribunal under this Part.

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- (2) The Secretary of State may make provision by order—
  - (a) requiring the payment of fees in respect of any such application, or in respect of any proceedings before, a leasehold valuation tribunal under this Part; and
  - (b) empowering a leasehold valuation tribunal to require a party to proceedings before it to reimburse any other party the whole or part of any fees paid by him.
- (3) The fees payable shall be such as may be specified in or determined in accordance with the order subject to this limit, that the fees payable in respect of any one application or reference by the court together with any proceedings before the tribunal arising out of that application or reference shall not exceed £500 or such other amount as may be specified by order of the Secretary of State.
- (4) An order under this section may make different provision for different cases or classes of case or for different areas.
- (5) An order may, in particular, provide for the reduction or waiver of fees by reference to the financial resources of the party by whom they are to be paid or met.

Any such order may apply, subject to such modifications as may be specified in the order, any other statutory means-testing regime as it has effect from time to time.
- (6) An order under this section shall be made by statutory instrument.
- (7) No order altering the limit under subsection (3) shall be made unless a draft of the order has been laid before and approved by a resolution of each House of Parliament.
- (8) Any other order under this section, unless it contains only such provision as is mentioned in subsection (1), shall be subject to annulment in pursuance of a resolution of either House of Parliament.”.

- (6) In section 52 of the <sup>M22</sup>Landlord and Tenant Act 1987 (jurisdiction of county courts), in subsection (2)(a) for “Parts I to IV” substitute “ Parts I, III and IV ”.

#### Commencement Information

- I2** S. 86 wholly in force 1.9.1997; s. 86 not in force at Royal Assent see s. 232(1)-(3); s. 86(4)(5) in force for certain purposes at 23.8.1996 by [S.I. 1996/2212](#), [art. 2\(1\)](#) and s. 86 in force at 1.9.1997 to the extent not already in force by [S.I. 1997/1851](#), [art. 2](#) (subject to the saving in [Sch. para. 2](#))

#### Marginal Citations

- M20** [1977 c. 42.](#)  
**M21** [1980 c. 51.](#)  
**M22** [1987 c. 31.](#)

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PROSPECTIVE

**87 Text of Part II of the Landlord and Tenant Act 1987, as amended.**

The text of Part II of the Landlord and Tenant Act 1987 as amended by this Act is set out in Schedule 5.

**88 Period after which acquisition order may be made.**

In Part III of the Landlord and Tenant Act 1987 (compulsory acquisition by tenants of their landlord's interest), in section 29(3) (conditions for making acquisition orders: period since appointment of manager under Part II) for “three years” substitute “ two years ”.

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

C4 S. 88 restricted (22.8.1996) by S.I. 1996/2212, art. 2(2), Sch. para. 1

*Right of first refusal*

**89 Application of right of first refusal in relation to contracts.**

(1) After section 4 of the <sup>M23</sup>Landlord and Tenant Act 1987 (relevant disposals) insert—

**“4A Application of provisions to contracts.**

(1) The provisions of this Part apply to a contract to create or transfer an estate or interest in land, whether conditional or unconditional and whether or not enforceable by specific performance, as they apply in relation to a disposal consisting of the creation or transfer of such an estate or interest.

As they so apply—

- (a) references to a disposal of any description shall be construed as references to a contract to make such a disposal;
- (b) references to making a disposal of any description shall be construed as references to entering into a contract to make such a disposal; and
- (c) references to the transferee under the disposal shall be construed as references to the other party to the contract and include a reference to any other person to whom an estate or interest is to be granted or transferred in pursuance of the contract.

(2) The provisions of this Part apply to an assignment of rights under such a contract as is mentioned in subsection (1) as they apply in relation to a disposal consisting of the transfer of an estate or interest in land.

As they so apply—

- (a) references to a disposal of any description shall be construed as references to an assignment of rights under a contract to make such a disposal;

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- (b) references to making a disposal of any description shall be construed as references to making an assignment of rights under a contract to make such a disposal;
  - (c) references to the landlord shall be construed as references to the assignor; and
  - (d) references to the transferee under the disposal shall be construed as references to the assignee of such rights.
- (3) The provisions of this Part apply to a contract to make such an assignment as is mentioned in subsection (2) as they apply (in accordance with subsection (1)) to a contract to create or transfer an estate or interest in land.
- (4) Nothing in this section affects the operation of the provisions of this Part relating to options or rights of pre-emption.”.
- (2) In section 4(2) of the Landlord and Tenant Act 1987 (relevant disposals: excluded disposals), for paragraph (i) (certain disposals in pursuance of existing obligations) substitute—
- “(i) a disposal in pursuance of a contract, option or right of pre-emption binding on the landlord (except as provided by section 8D (application of sections 11 to 17 to disposal in pursuance of option or right of pre-emption));”.
- (3) In section 20(1) (interpretation), in the definition of “disposal” for “has the meaning given by section 4(3)” substitute “ shall be construed in accordance with section 4(3) and section 4A (application of provisions to contracts) ”.

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

C5 S. 89 restricted (22.8.1996) by [S.I. 1996/2212](#), [art. 2\(2\)](#), Sch. para. 2

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**Marginal Citations**

M23 1987 c. 31.

## 90 Notice required to be given by landlord making disposal.

- (1) In section 4(2) of the <sup>M24</sup>Landlord and Tenant Act 1987 (disposals which are not relevant disposals for the purposes of Part I of that Act), for paragraph (1) substitute—
- “(1) a disposal by a body corporate to a company which has been an associated company of that body for at least two years.”.
- (2) The above amendment does not apply to a disposal made in pursuance of an obligation entered into before the commencement of this section.

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

C6 S. 90 restricted (22.8.1996) by [S.I. 1996/2212](#), [art. 2\(2\)](#), Sch. para. 2

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**Marginal Citations**

M24 1987 c. 31.

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## 91 Offence of failure to comply with requirements of Part I.

(1) After section 10 of the Landlord and Tenant Act 1987 insert—

### “10A Offence of failure to comply with requirements of Part I.

- (1) A landlord commits an offence if, without reasonable excuse, he makes a relevant disposal affecting premises to which this Part applies—
  - (a) without having first complied with the requirements of section 5 as regards the service of notices on the qualifying tenants of flats contained in the premises, or
  - (b) in contravention of any prohibition or restriction imposed by sections 6 to 10.
- (2) A person guilty of an offence under this section is liable on summary conviction to a fine not exceeding level 5 on the standard scale.
- (3) Where an offence under this section committed by a body corporate is proved—
  - (a) to have been committed with the consent or connivance of a director, manager, secretary or other similar officer of the body corporate, or a person purporting to act in such a capacity, or
  - (b) to be due to any neglect on the part of such an officer or person,
 he, as well as the body corporate, is guilty of the offence and liable to be proceeded against and punished accordingly.
 

Where the affairs of a body corporate are managed by its members, the above provision applies in relation to the acts and defaults of a member in connection with his functions of management as if he were a director of the body corporate.
- (4) Proceedings for an offence under this section may be brought by a local housing authority (within the meaning of section 1 of the <sup>M25</sup>Housing Act 1985).
- (5) Nothing in this section affects the validity of the disposal.”.

(2) The above amendment does not apply to a disposal made in pursuance of an obligation entered into before the commencement of this section.

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

C7 S. 91 restricted (22.8.1996) by S.I. 1996/2212, art. 2(2), Sch. para. 2

#### Marginal Citations

M25 1985 c. 68.

## 92 Procedure for exercise of rights of first refusal.

- (1) Part I of the <sup>M26</sup>Landlord and Tenant Act 1987 (tenants' rights of first refusal) is amended in accordance with Schedule 6.
- (2) The amendments restate the principal provisions of that Part so as to—

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- (a) simplify the procedures for the exercise of the rights conferred on tenants, and
- (b) apply those procedures in relation to contracts and certain special cases.

(3) In Schedule 6—

Part I sets out provisions replacing sections 5 to 10 of the Act (rights of first refusal),

Part II sets out provisions replacing sections 11 to 15 of the Act (enforcement by tenants of rights against purchaser),

Part III sets out provisions replacing sections 16 and 17 of the Act (enforcement of rights against subsequent purchasers and termination of rights), and

Part IV contains consequential amendments.

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

**C8** S. 92 restricted (22.8.1996) by [S.I. 1996/2212](#), [art. 2\(2\)](#), Sch. para. 2

**Commencement Information**

**I3** S. 92 wholly in force 1.10.1996; s. 92 not in force at Royal Assent see s. 232(1)-(3); s. 92 in force for certain purposes at 23.8.1996 and in force at 1.10.1996 so far as not already in force by [S.I. 1996/2212](#), [art. 2](#)

**Marginal Citations**

**M26** 1987 c. 31.

**93 Duty of new landlord to inform tenant of rights.**

- (1) In the <sup>M27</sup>Landlord and Tenant Act 1985, after section 3 (duty to inform tenant of assignment of landlord's interest) insert—

**“3A Duty to inform tenant of possible right to acquire landlord's interest.**

- (1) Where a new landlord is required by section 3(1) to give notice to a tenant of an assignment to him, then if—

- (a) the tenant is a qualifying tenant within the meaning of Part I of the Landlord and Tenant Act 1987 (tenants' rights of first refusal), and
- (b) the assignment was a relevant disposal within the meaning of that Part affecting premises to which at the time of the disposal that Part applied,

the landlord shall give also notice in writing to the tenant to the following effect.

- (2) The notice shall state—

- (a) that the disposal to the landlord was one to which Part I of the Landlord and Tenant Act 1987 applied;
- (b) that the tenant (together with other qualifying tenants) may have the right under that Part—
  - (i) to obtain information about the disposal, and
  - (ii) to acquire the landlord's interest in the whole or part of the premises in which the tenant's flat is situated; and

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- (c) the time within which any such right must be exercised, and the fact that the time would run from the date of receipt of notice under this section by the requisite majority of qualifying tenants (within the meaning of that Part).
- (3) A person who is required to give notice under this section and who fails, without reasonable excuse, to do so within the time allowed for giving notice under section 3(1) commits a summary offence and is liable on conviction to a fine not exceeding level 4 on the standard scale.”
- (2) In section 32(1) of the <sup>M28</sup>Landlord and Tenant Act 1985 (provisions not applying to tenancies within Part II of the <sup>M29</sup>Landlord and Tenant Act 1954), for “sections 1 to 3” substitute “ sections 1 to 3A ”.

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

**C9** S. 93 restricted (22.8.1996) by [S.I. 1996/2212](#), [art. 2\(2\)](#), Sch. para. 2

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**Marginal Citations**

**M27** 1985 c. 70.

**M28** 1985 c. 70.

**M29** 1954 c. 56.

*General legal advice*

**94 Provision of general legal advice about residential tenancies.**

- (1) The Secretary of State may give financial assistance to any person in relation to the provision by that person of general advice about—
- (a) any aspect of the law of landlord and tenant, so far as relating to residential tenancies, or
  - (b) Chapter IV of Part I of the <sup>M30</sup>Leasehold Reform, Housing and Urban Development Act 1993 (estate management schemes in connection with enfranchisement).
- (2) Financial assistance under this section may be given in such form and on such terms as the Secretary of State considers appropriate.
- (3) The terms on which financial assistance under this section may be given may, in particular, include provision as to the circumstances in which the assistance must be repaid or otherwise made good to the Secretary of State and the manner in which that is to be done.

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**Marginal Citations**

**M30** 1993 c. 28.



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### *Supplementary*

#### **95 Jurisdiction of county courts.**

- (1) Any jurisdiction expressed by a provision to which this section applies to be conferred on the court shall be exercised by a county court.
- (2) There shall also be brought in a county court any proceedings for determining any question arising under or by virtue of any provision to which this section applies.
- (3) Where, however, other proceedings are properly brought in the High Court, that court has jurisdiction to hear and determine proceedings to which subsection (1) or (2) applies which are joined with those proceedings.
- (4) Where proceedings are brought in a county court by virtue of subsection (1) or (2), that court has jurisdiction to hear and determine other proceedings joined with those proceedings despite the fact that they would otherwise be outside its jurisdiction.
- (5) The provisions to which this section applies are—
  - (a) section 81 (restriction on termination of tenancy for failure to pay service charge), and
  - (b) section 84 (right to appoint surveyor to advise on matters relating to service charges) and Schedule 4 (rights exercisable by surveyor appointed by tenants' association).

## **CHAPTER II**

### **ASSURED TENANCIES**

#### *Assured shorthold tenancies*

#### **96 Tenancies which are assured shorthold tenancies.**

- (1) In Chapter II of Part I of the <sup>M31</sup>Housing Act 1988 (assured shorthold tenancies) there shall be inserted at the beginning—

##### **“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.”.

- (2) After Schedule 2 to that Act there shall be inserted the Schedule set out in Schedule 7 to this Act.

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#### Commencement Information

- I4** S. 96 wholly in force 28.2.1997; s. 96 not in force at Royal Assent see s. 232(1)-(3); s. 96 in force for certain purposes at 23.8.1996 by [S.I. 1996/2212](#), [art. 2\(1\)](#) and in force at 28.2.1997 to the extent it is not already in force by [S.I. 1997/225](#), [art. 2](#)

#### Marginal Citations

- M31** 1988 c. 50.

### 97 Duty of landlord to provide statement of terms of assured shorthold tenancy.

After section 20 of the Housing Act 1988 there shall be inserted—

**“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—

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- (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.”

## 98 Form of notices under s. 21 of the Housing Act 1988.

- (1) Section 21 of the <sup>M32</sup>Housing Act 1988 (recovery of possession on expiry or termination of assured shorthold tenancy) shall be amended as follows.
- (2) In subsection (1)(b) (which requires the landlord under a fixed term tenancy to give two months’ notice to recover possession), after “notice” there shall be inserted “ in writing ”.
- (3) In subsection (4)(a) (corresponding provision for periodic tenancies), after “notice”, where it first occurs, there shall be inserted “ in writing ”.

### Commencement Information

**I5** S. 98 wholly in force at 28.2.1997 by [S.I. 1997/225](#), [art. 2](#) (subject to savings in the Sch. to that S.I.)

### Marginal Citations

**M32** 1988 c. 50.

## 99 Restriction on recovery of possession on expiry or termination.

In section 21 of the Housing Act 1988 there shall be inserted at the end—

“(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.

(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.

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- (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.”.

### **100 Applications for determination of rent: time limit.**

- (1) Section 22 of the <sup>M33</sup>Housing Act 1988 (reference of excessive rents to rent assessment committee) shall be amended as follows.
- (2) In subsection (2) (circumstances in which no application under the section may be made) after paragraph (a) there shall be inserted—
  - “(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”.
- (3) At the end there shall be inserted—
  - “(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.”.

#### **Marginal Citations**

M33 1988 c. 50.

### *Grounds for possession*

### **101 Mandatory possession for non-payment of rent: reduction in arrears required.**

- In Part I of Schedule 2 to the Housing Act 1988 (grounds on which court must order possession) in Ground 8 (rent unpaid for certain periods)—
- (a) in paragraph (a) (rent payable weekly or fortnightly) for “thirteen weeks” there shall be substituted “eight weeks”, and
  - (b) in paragraph (b) (rent payable monthly) for “three months” there shall be substituted “two months”.

#### **Commencement Information**

**I6** S. 101 wholly in force at 28.2.1997 by S.I. 1997/225, art. 2 (subject to savings in the Sch. to that S.I.)

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## **102 Recovery of possession where grant induced by false statement.**

In Part II of Schedule 2 to the Housing Act 1988 (grounds on which court may order possession) there shall be inserted at the end—

### **Ground 17**

The tenant is the person, or one of the persons, to whom the tenancy was granted and the landlord was induced to grant the tenancy by a false statement made knowingly or recklessly by—

- (a) the tenant, or
- (b) a person acting at the tenant’s instigation.”

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#### **Commencement Information**

**I7** S. 102 wholly in force at 28.2.1997 by [S.I. 1997/225](#), [art. 2](#) (subject to savings in the Sch. to that S.I.)

### *Assured agricultural occupancies*

## **103 Assured agricultural occupancies: exclusion of tenancies of agricultural holdings and farm business tenancies.**

- (1) Section 24 of the <sup>M34</sup>Housing Act 1988 (assured agricultural occupancies) shall be amended as follows.
- (2) In subsection (2)(b) (under which a tenancy is an assured agricultural occupancy if it would be an assured tenancy, but for paragraph 7 of Schedule 1 to that Act) there shall be inserted at the end “ and is not an excepted tenancy ”.
- (3) After subsection (2) there shall be inserted—
  - “(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 <sup>M35</sup>Agricultural Holdings Act 1986 in relation to which that Act applies, or
    - (b) a farm business tenancy within the meaning of the <sup>M36</sup>Agricultural Tenancies Act 1995.”.

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#### **Marginal Citations**

**M34** 1988 c. 50.  
**M35** 1986 c. 5.  
**M36** 1995 c. 8.

### *Consequential amendments*

## **104 Consequential amendments: assured tenancies.**

The enactments mentioned in Schedule 8 have effect with the amendments specified there which are consequential on the provisions of this Chapter.

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## CHAPTER III

### LEASEHOLD REFORM

#### *Scope of rights*

#### **105 Low rent test: nil rateable values.**

- (1) In section 4(1) of the <sup>M37</sup>Leasehold Reform Act 1967 (meaning of “low rent”) —
- (a) in paragraph (i) (cases where rent limit of two-thirds of rateable value on later of appropriate day and first day of term applies), for the words from “or (where” to “that date” there shall be substituted “ , or on or after 1st April 1990 in pursuance of a contract made before that date, and the property had a rateable value other than nil at the date of the commencement of the tenancy or else at any time before 1st April 1990, ”,
  - (b) in paragraph (ii) (other cases), for the words from “is entered” to “1990),” there shall be substituted “ does not fall within paragraph (i) above, ”, and
  - (c) in paragraph (a) (definition of “appropriate day” by reference to section 25(3) of the <sup>M38</sup>Rent Act 1977), there shall be inserted at the end “ if the reference in paragraph (a) of that provision to a rateable value were to a rateable value other than nil ”.
- (2) In section 4A of the <sup>M39</sup>Leasehold Reform Act 1967 (alternative rent limits for the purposes of section 1A(2) of that Act)—
- (a) in subsection (1)(b) (cases where rent limit of two-thirds of rateable value on the relevant date applies), for sub-paragraph (ii) there shall be substituted—
    - “(ii) the property had a rateable value other than nil at the date of commencement of the tenancy or else at any time before 1st April 1990,”, and
  - (b) in subsection (2), for paragraph (b) there shall be substituted—
    - “(b) “the relevant date” means the date of the commencement of the tenancy or, if the property did not have a rateable value, or had a rateable value of nil, on that date, the date on which it first had a rateable value other than nil;”.
- [<sup>F1</sup>(3) In section 8 of the <sup>M40</sup>Leasehold Reform, Housing and Urban Development Act 1993 (leases at a low rent)—
- (a) in subsection (1)(b) (cases where rent limit of two-thirds of rateable value on the appropriate date applies), for sub-paragraph (ii) there shall be substituted—
    - “(ii) the flat had a rateable value other than nil at the date of the commencement of the lease or else at any time before 1st April 1990,”, and
  - (b) in subsection (2), for paragraph (b) there shall be substituted—
    - “(b) “the appropriate date” means the date of commencement of the lease or, if the flat in question did not have a rateable value, or had a rateable value of nil, on that date, the date on which the flat first had a rateable value other than nil;”].

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#### Textual Amendments

- F1** S. 105(3) repealed (26.7.2002 for E. and otherwise *prosp.*) by 2002 c. 15, ss. 180, 181(1), **Sch. 14**; S.I. 2002/1912, art. 2(c), **Sch. 1 Pt. 1** (subject to the transitional provisions and savings in **Sch. 2**)

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

- C10** S. 105(1)(2) restricted (22.8.1996) by S.I. 1996/2212, art. 2(2), **Sch. para. 3**  
**C11** S. 105(3) restricted (22.8.1996) by S.I. 1996/2212, art. 2(2), **Sch. para. 4**

#### Marginal Citations

- M37** 1967 c. 88.  
**M38** 1977 c. 42.  
**M39** 1967 c. 88.  
**M40** 1993 c. 28.

### 106 Low rent test: extension of rights.

Schedule 9 (which makes provision for conferring an additional right to enfranchisement in relation to tenancies which fail the low rent test and for introducing an alternative to the low rent test in the case of the right to collective enfranchisement and the right to a new lease) shall have effect.

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

- C12** S. 106 restricted (5.3.1997) by S.I. 1997/618, art. 2, **Sch. para. 2**

#### Commencement Information

- I8** S. 106 wholly in force 1.4.1997; s. 106 not in force at Royal Assent see s. 232(1)-(3); s. 106 in force for certain purposes at 23.8.1996 by S.I. 1996/2212, **art. 2(1)** and in force at 1.4.1997 to the extent not already in force by S.I. 1997/618, **art. 2** (subject to the limitation in (2) of that art.)

### 107 Collective enfranchisement: multiple freeholders.

- (1) In section 3 of the Leasehold Reform, Housing and Urban Development Act 1993 (premises in respect of which the right to collective enfranchisement is exercisable), in subsection (1)(a), the words “and the freehold of the whole of the building or of that part of the building is owned by the same person” shall be omitted.
- (2) In section 4 of that Act (premises excluded from the right to collective enfranchisement), after subsection (3) there shall be inserted—

“(3A) Where different persons own the freehold of different parts of premises within subsection (1) of section 3, this Chapter does not apply to the premises if any of those parts is a self-contained part of a building for the purposes of that section.”.
- (3) In section 1(3) of that Act (additional property which may be acquired by tenants exercising the right to collective enfranchisement), the words “the freehold of it is owned by the person who owns the freehold of the relevant premises and” shall be omitted.
- (4) Schedule 10 (amendments consequential on this section) shall have effect.

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

**C13** S. 107 restricted (22.8.1996) by [S.I. 1996/2212](#), [art. 2\(2\)](#), Sch. para 4.

*Valuation*

**108 Collective enfranchisement: removal of need for professional valuation of interests to be acquired.**

In section 13 of the <sup>M41</sup>Leasehold Reform, Housing and Urban Development Act 1993 (notice by qualifying tenants of claim to exercise right to collective enfranchisement) subsection (6) (tenants to obtain professional valuation of interests proposed to be acquired before giving notice) shall cease to have effect.

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

**C14** S. 108 restricted (22.8.1996) by [S.I. 1996/2212](#), [art. 2\(2\)](#), Sch. para 4.

**Marginal Citations**

**M41** 1993 c. 28.

**109 Collective enfranchisement: valuation principles.**

- (1) Schedule 6 to the Leasehold Reform, Housing and Urban Development Act 1993 (purchase price payable by nominee purchaser) shall be amended as follows.
- (2) In paragraph 3(1) (freeholder’s interest to be valued on the basis that neither the nominee purchaser nor any participating tenant is in the market) for “neither the nominee purchaser nor any participating tenant” there shall be substituted “no person who falls within sub-paragraph (1A)”.
- (3) After paragraph 3(1) there shall be inserted—
  - “(1A) A person falls within this sub-paragraph if he is—
    - (a) the nominee purchaser, or
    - (b) a tenant of premises contained in the specified premises, or
    - (c) an owner of an interest which the nominee purchaser is to acquire in pursuance of section 2(1)(b).”.
- (4) In paragraph 7 (value of intermediate leasehold interests) after sub-paragraph (1) there shall be inserted—
  - “(1A) In its application in accordance with sub-paragraph (1), paragraph 3(1A) shall have effect with the addition after paragraph (a) of—
    - (“ an owner of a freehold interest in the specified premises, or”)
- (5) In paragraph 11 (value of other interests) after sub-paragraph (3) there shall be inserted—
  - “(4) In its application in accordance with sub-paragraph (2) above, paragraph 3(1A) shall have effect with the addition after paragraph (a) of—



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“(“ an owner of a freehold interest in the specified premises, or””.

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

**C15** S. 109 restricted (22.8.1996) by **S.I. 1996/2212, art. 2(2)**, Sch. para 4.

**110 New leases: valuation principles.**

- (1) Schedule 13 to the Leasehold Reform, Housing and Urban Development Act 1993 (premium and other amounts payable by tenant on grant of new lease) shall be amended as mentioned in subsections (2) to (4) below.
- (2) In paragraph 3(2) (landlord’s interest to be valued on the basis that the tenant is not buying or seeking to buy) for “the tenant not” there shall be substituted “ neither the tenant nor any owner of an intermediate leasehold interest ”.
- (3) In paragraph 4(3) (calculation of marriage value) for paragraph (a) (value of tenant’s interest) there shall be substituted—
  - “(a) the value of the interest of the tenant under his existing lease shall be determined in accordance with paragraph 4A;
  - (aa) the value of the interest to be held by the tenant under the new lease shall be determined in accordance with paragraph 4B;”, and, in paragraph (b), for “that sub-paragraph” there shall be substituted “ sub-paragraph (2) ”.
- (4) After paragraph 4 there shall be inserted—

- “4A
- (1) Subject to the provisions of this paragraph, the value of the interest of the tenant under the existing lease is the amount which at the valuation date that interest might be expected to realise if sold on the open market by a willing seller (with neither the landlord nor any owner of an intermediate leasehold interest buying or seeking to buy) on the following assumptions—
    - (a) on the assumption that the vendor is selling such interest as is held by the tenant subject to any interest inferior to the interest of the tenant;
    - (b) on the assumption that Chapter I and this Chapter confer no right to acquire any interest in any premises containing the tenant’s flat or to acquire any new lease;
    - (c) on the assumption that any increase in the value of the flat which is attributable to an improvement carried out at his own expense by the tenant or by any predecessor in title is to be disregarded; and
    - (d) on the assumption that (subject to paragraph (b)) the vendor is selling with and subject to the rights and burdens with and subject to which any interest inferior to the existing lease of the tenant has effect.
  - (2) It is hereby declared that the fact that sub-paragraph (1) requires assumptions to be made in relation to particular matters does not preclude the making of assumptions as to other matters where those assumptions are appropriate for determining the amount which at the valuation date the interest of the tenant under his existing lease might be expected to realise if sold as mentioned in that sub-paragraph.

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- (3) In determining any such amount there shall be made such deduction (if any) in respect of any defect in title as on a sale of that interest on the open market might be expected to be allowed between a willing seller and a willing buyer.
  - (4) Subject to sub-paragraph (5), the value of the interest of the tenant under his existing lease shall not be increased by reason of—
    - (a) any transaction which—
      - (i) is entered into after 19th January 1996, and
      - (ii) involves the creation or transfer of an interest inferior to the tenant's existing lease; or
    - (b) any alteration after that date of the terms on which any such inferior interest is held.
  - (5) Sub-paragraph (4) shall not apply to any transaction which falls within paragraph (a) of that sub-paragraph if—
    - (a) the transaction is entered into in pursuance of a contract entered into on or before the date mentioned in that paragraph; and
    - (b) the amount of the premium payable by the tenant in respect of the grant of the new lease was determined on or before that date either by agreement or by a leasehold valuation tribunal under this Chapter.
- 4B
- (1) Subject to the provisions of this paragraph, the value of the interest to be held by the tenant under the new lease is the amount which at the valuation date that interest (assuming it to have been granted to him at that date) might be expected to realise if sold on the open market by a willing seller (with the owner of any interest superior to the interest of the tenant not buying or seeking to buy) on the following assumptions—
    - (a) on the assumption that the vendor is selling such interest as is to be held by the tenant under the new lease subject to the inferior interests to which the tenant's existing lease is subject at the valuation date;
    - (b) on the assumption that Chapter I and this Chapter confer no right to acquire any interest in any premises containing the tenant's flat or to acquire any new lease;
    - (c) on the assumption that there is to be disregarded any increase in the value of the flat which would fall to be disregarded under paragraph (c) of sub-paragraph (1) of paragraph 4A in valuing in accordance with that sub-paragraph the interest of the tenant under his existing lease; and
    - (d) on the assumption that (subject to paragraph (b)) the vendor is selling with and subject to the rights and burdens with and subject to which any interest inferior to the tenant's existing lease at the valuation date then has effect.
  - (2) It is hereby declared that the fact that sub-paragraph (1) requires assumptions to be made in relation to particular matters does not preclude the making of assumptions as to other matters where those assumptions are appropriate for determining the amount which at the valuation date the interest to be held by the tenant under the new lease might be expected to realise if sold as mentioned in that sub-paragraph.

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- (3) In determining any such amount there shall be made such deduction (if any) in respect of any defect in title as on a sale of that interest on the open market might be expected to be allowed between a willing seller and a willing buyer.
- (4) Subject to sub-paragraph (5), the value of the interest to be held by the tenant under the new lease shall not be decreased by reason of—
  - (a) any transaction which—
    - (i) is entered into after 19th January 1996, and
    - (ii) involves the creation or transfer of an interest inferior to the tenant’s existing lease; or
  - (b) any alteration after that date of the terms on which any such inferior interest is held.
- (5) Sub-paragraph (4) shall not apply to any transaction which falls within paragraph (a) of that sub-paragraph if—
  - (a) the transaction is entered into in pursuance of a contract entered into on or before the date mentioned in that paragraph; and
  - (b) the amount of the premium payable by the tenant in respect of the grant of the new lease was determined on or before that date either by agreement or by a leasehold valuation tribunal under this Chapter.”.
- (5) This section applies in relation to any claim made after 19th January 1996 by the giving of notice under section 42 of the Act of 1993 unless the amount of the premium payable in pursuance of the claim has been determined, either by agreement or by a leasehold valuation tribunal under Chapter II of the Act of 1993, before the day on which this Act is passed.

### *Trusts*

#### **[<sup>F2</sup>111 Satisfaction of residence condition: collective enfranchisement.**

- (1) In section 6 of the <sup>M42</sup>Leasehold Reform, Housing and Urban Development Act 1993 (which provides when a qualifying tenant of a flat satisfies the residence condition) for subsection (4) there shall be substituted—
  - “(4) Subsection (1) shall not apply where a lease is vested in trustees (other than a sole tenant for life within the meaning of the <sup>M43</sup>Settled Land Act 1925), and, in that case, a qualifying tenant of a flat shall, for the purposes of this Chapter, be treated as satisfying the residence condition at any time when the condition in subsection (5) is satisfied with respect to an individual having an interest under the trust (whether or not also a trustee).
  - (5) That condition is that the individual has occupied the flat as his only or principal home—
    - (a) for the last twelve months, or
    - (b) for periods amounting to three years in the last ten years, whether or not he has used the flat also for other purposes.
  - (6) For the purposes of subsection (5)—
    - (a) any reference to the flat includes a reference to part of it; and

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- (b) it is immaterial whether at any particular time the individual's occupation was in right of the lease by virtue of which the trustees are a qualifying tenant or in right of some other lease or otherwise.”
- (2) In section 13(3)(e)(iii) of that Act (particulars of satisfaction of residence condition to be included in the notice by which qualifying tenants exercise right to collective enfranchisement)—
- (a) after “which he” there shall be inserted “, or, where the tenant's lease is vested as mentioned in section 6(4), the individual concerned,” and
- (b) for “his”, in the first place where it occurs, there shall be substituted “ the ”.]

#### Textual Amendments

**F2** S. 111 repealed (26.7.2002 for E. and otherwise *prosp.*) by 2002 c. 15, ss. 180, 181(1), **Sch. 14**; S.I. 2002/1912, art. 2(b)(ii), **Sch. 1 Pt. 1** (subject to transitional provisions and savings in **Sch. 2**)

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

**C16** S. 111 restricted (22.8.1996) by S.I. 1996/2212, art. 2(2), **Sch. para 4**.

#### Marginal Citations

**M42** 1993 c. 28.

**M43** 1925 c. 18.

### [<sup>F3</sup>112 Satisfaction of residence condition: new leases.

- (1) Section 39 of the <sup>M44</sup>Leasehold Reform, Housing and Urban Development Act 1993 (right of qualifying tenant of flat to acquire new lease) shall be amended as mentioned in subsections (2) to (4) below.
- (2) In subsection (2) (circumstances in which the right conferred) for paragraph (b) (residence condition) there shall be substituted—
- “(b) the condition specified in subsection (2A) or, as the case may be, (2B) is satisfied.
- (2A) Where the lease by virtue of which the tenant is a qualifying tenant is vested in trustees (other than a sole tenant for life within the meaning of the <sup>M45</sup>Settled Land Act 1925), the condition is that an individual having an interest under the trust (whether or not also a trustee) has occupied the flat as his only or principal home—
- (a) for the last three years, or
- (b) for periods amounting to three years in the last ten years,
- whether or not he has used it also for other purposes.
- (2B) Where the lease by virtue of which the tenant is a qualifying tenant is not vested as mentioned in subsection (2A), the condition is that the tenant has occupied the flat as his only or principal home—
- (a) for the last three years, or
- (b) for periods amounting to three years in the last ten years,
- whether or not he has used it also for other purposes.”
- (3) After subsection (4) there shall be inserted—

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“(4A) For the purposes of subsection (2A)—

- (a) any reference to the flat includes a reference to part of it; and
- (b) it is immaterial whether at any particular time the individual’s occupation was in right of the lease by virtue of which the trustees are a qualifying tenant or in right of some other lease or otherwise.”.

(4) In subsection (5), for “(2)(b)” there shall be substituted “ (2B) ”.

(5) In section 42 of that Act (notice by qualifying tenant of claim to exercise right) for subsection (4) there shall be substituted—

“(4) If the tenant’s lease is vested as mentioned in section 39(2A), the reference to the tenant in subsection (3)(b)(iv) shall be read as a reference to any individual with respect to whom it is claimed the condition in section 39(2A) is satisfied.”].

#### Textual Amendments

**F3** S. 112 repealed (26.7.2002 for E. and otherwise *prosp.*) by 2002 c. 15, ss. 180, 181(1), **Sch. 14**; S.I. 2002/1912, art. 2(b)(ii), **Sch. 1 Pt. 2** (subject to transitional provisions and savings in **Sch. 2**)

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

**C17** S. 112 restricted (22.8.1996) by S.I. 1996/2212, art. 2(2), **Sch. para 4**.

#### Marginal Citations

**M44** 1993 c. 28.

**M45** 1925 c. 18.

### 113 Powers of trustees.

After section 93 of the Leasehold Reform, Housing and Urban Development Act 1993 there shall be inserted—

#### “93A Powers of trustees in relation to rights under Chapters I and II.

- (1) Where trustees are a qualifying tenant of a flat for the purposes of Chapter I or II, their powers under the instrument regulating the trusts shall include power to participate in the exercise of the right to collective enfranchisement under Chapter I or, as the case may be, to exercise the right to a new lease under Chapter II.
- (2) Subsection (1) shall not apply where the instrument regulating the trusts—
  - (a) is made on or after the day on which section 113 of the Housing Act 1996 comes into force, and
  - (b) contains an explicit direction to the contrary.
- (3) The powers conferred by subsection (1) shall be exercisable with the like consent or on the like direction (if any) as may be required for the exercise of the trustees’ powers (or ordinary powers) of investment.
- (4) The following purposes, namely—

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- (a) those authorised for the application of capital money by section 73 of the <sup>M46</sup>Settled Land Act 1925, or by that section as applied by section 28 of the <sup>M47</sup>Law of Property Act 1925 in relation to trusts for sale, and
- (b) those authorised by section 71 of the Settled Land Act 1925, or by that section as so applied, as purposes for which moneys may be raised by mortgage,

shall include the payment of any expenses incurred by a tenant for life or statutory owners or by trustees for sale, as the case may be, in or in connection with participation in the exercise of the right to collective enfranchisement under Chapter I or in or in connection with the exercise of the right to a new lease under Chapter II.”.

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

**C18** S. 113 restricted (22.8.1996) by [S.I. 1996/2212](#), [art. 2\(2\)](#), Sch. para 4.

**Marginal Citations**

**M46** 1925 c. 18.

**M47** 1925 c. 20.

*Miscellaneous*

**114 Minor amendment of section 1(1)(a) of Leasehold Reform Act 1967.**

In section 1 of the <sup>M48</sup>Leasehold Reform Act 1967 (tenants entitled to enfranchisement or extension), in subsection (1)(a)—

- (a) in sub-paragraph (i), for the words from “or (where” to “that date,” there shall be substituted “, or on or after 1st April 1990 in pursuance of a contract made before that date, and the house and premises had a rateable value at the date of commencement of the tenancy or else at any time before 1st April 1990, ”, and
- (b) in sub-paragraph (ii), for the words from “is entered” to “1990),” there shall be substituted “ does not fall within sub-paragraph (i) above, ”.

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

**C19** S. 114 restricted (22.8.1996) by [S.I. 1996/2212](#), [art. 2\(2\)](#), Sch. para. 3

**Marginal Citations**

**M48** 1967 c. 88.

**115 Power for leasehold valuation tribunal to determine amount of costs payable under Leasehold Reform Act 1967.**

In section 21(1) of the Leasehold Reform Act 1967 (matters to be determined by leasehold valuation tribunal), after paragraph (b) there shall be inserted—

“(ba) the amount of any costs payable under section 9(4) or 14(2);”.

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

**C20** S. 115 restricted (22.8.1996) by [S.I. 1996/2212](#), [art. 2\(2\)](#), Sch. para. 3

**116 Compensation for postponement of termination in connection with ineffective claims.**

Schedule 11 (which makes, in relation to claims to enfranchisement or an extended lease under Part I of the Leasehold Reform Act 1967 and claims to collective enfranchisement or a new lease under Chapter I or II of Part I of the <sup>M49</sup>Leasehold Reform, Housing and Urban Development Act 1993, provision for compensation of the landlord where the claim has prolonged an existing tenancy, but is ineffective) shall have effect.

**Marginal Citations**

**M49** 1993 c. 28.

**117 Priority of interests on grant of new lease.**

After section 58 of the <sup>M50</sup>Leasehold Reform, Housing and Urban Development Act 1993 there shall be inserted—

**“58A Priority of interests on grant of new lease.**

- (1) Where a lease granted under section 56 takes effect subject to two or more interests to which the existing lease was subject immediately before its surrender, the interests shall have the same priority in relation to one another on the grant of the new lease as they had immediately before the surrender of the existing lease.
- (2) Subsection (1) is subject to agreement to the contrary.
- (3) Where a person who is entitled on the grant of a lease under section 56 to rights of occupation in relation to the flat comprised in that lease was entitled immediately before the surrender of the existing lease to rights of occupation in relation to the flat comprised in that lease, the rights to which he is entitled on the grant of the new lease shall be treated as a continuation of the rights to which he was entitled immediately before the surrender of the existing lease.
- (4) In this section—

“the existing lease”, in relation to a lease granted under section 56, means the lease surrendered on the grant of the new lease, and  
“rights of occupation” has the same meaning as in the <sup>M51</sup>Matrimonial Homes Act 1983.”.

**Marginal Citations**

**M50** 1993 c. 28.

**M51** 1983 c. 19.

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**118 Estate management schemes in connection with enfranchisement by virtue of s. 106.**

- (1) Chapter IV of Part I of the 1993 Act, except section 75(1), (estate management schemes in connection with enfranchisement by virtue of that Act) shall also have effect subject to the modifications mentioned in subsections (2) to (4) below.
- (2) In section 69(1) (definition of estate management schemes), for paragraphs (a) and (b) there shall be substituted—
  - “(a) acquiring the landlord’s interest in their house and premises (“the house”) under Part I of the <sup>M52</sup>Leasehold Reform Act 1967 by virtue of the provisions of section 1AA of that Act (as inserted by paragraph 1 of Schedule 9 to the Housing Act 1996), or
  - (b) acquiring the landlord’s interest in any premises (“the premises”) in accordance with Chapter I of this Part of this Act by virtue of the amendments of that Chapter made by paragraph 3 of Schedule 9 to the Housing Act 1996.”.
- (3) In section 70 (time limit for applications for approval), for “two years beginning with the date of the coming into force of this section” there shall be substituted “two years beginning with the coming into force of section 118 of the Housing Act 1996”.
- (4) In section 74 (effect of application for approval on claim to acquire freehold), in subsection (1)—
  - (a) in paragraph (b), in sub-paragraph (i), the words from “being” to the end shall be omitted, and
  - (b) after that paragraph there shall be inserted “and
  - (c) in the case of an application for the approval of a scheme as an estate management scheme, the scheme would extend to the house or premises if acquired in pursuance of the notice.”.
- (5) Section 94(6) to (8) of the 1993 Act (estate management schemes relating to Crown land) shall also have effect with the substitution for any reference to a provision of Chapter IV of Part I of that Act of a reference to that provision as it has effect by virtue of subsection (1) above.
- (6) In section 33 of the <sup>M53</sup>National Heritage Act 1983 (general functions of the Historic Buildings and Monuments Commission for England), after subsection (2B) there shall be inserted—
 

“(2C) In subsection (2B), references to provisions of the <sup>M54</sup>Leasehold Reform, Housing and Urban Development Act 1993 include references to those provisions as they have effect by virtue of section 118(1) of the Housing Act 1996.”.
- (7) In section 72 of the <sup>M55</sup>Planning (Listed Buildings and Conservation Areas) Act 1990 (general duty as respects conservation area in exercise of planning functions), at the end there shall be inserted—
 

“(3) In subsection (2), references to provisions of the Leasehold Reform, Housing and Urban Development Act 1993 include references to those provisions as they have effect by virtue of section 118(1) of the Housing Act 1996.”.
- (8) In this section, “the 1993 Act” means the Leasehold Reform, Housing and Urban Development Act 1993.



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

**C21** S. 118 restricted (5.3.1997) by [S.I. 1997/618](#), [art.2](#), [Sch. para. 3](#)

**Marginal Citations**

**M52** 1967 c. 88.

**M53** 1983 c. 47.

**M54** 1993 c. 28.

**M55** 1990 c. 9.

**119 Leasehold valuation tribunals: pre-trial review.**

- (1) Procedure regulations may make provision in relation to proceedings before a leasehold valuation tribunal—
  - (a) for the holding of a pre-trial review, on the application of a party to the proceedings or of the tribunal’s own motion; and
  - (b) for the exercise of the functions of the tribunal in relation to, or at, a pre-trial review by a single member who is qualified to exercise them.
- (2) In subsection (1) “procedure regulations” means regulations under section 74(1)(b) of the <sup>M56</sup>Rent Act 1977, as that section applies in relation to leasehold valuation tribunals.
- (3) For the purposes of subsection (1)(b)—
  - (a) a “member” means a member of the panel provided for in Schedule 10 to that Act, and
  - (b) a member is qualified to exercise the functions referred to if he was appointed to that panel by the Lord Chancellor.

**Commencement Information**

**I9** S. 119 partly in force; s. 119 not in force at Royal Assent see s. 232(1)-(3); s. 119 in force for certain purposes at 23.8.1996 by [S.I. 1996/2212](#), [art. 2\(1\)](#)

**Marginal Citations**

**M56** 1977 c. 42.

**Status:**

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**Changes to legislation:**

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