



Housing Act 2004

2004 CHAPTER 34

PART 6

OTHER PROVISIONS ABOUT HOUSING

CHAPTER 1

SECURE TENANCIES

Suspension of certain rights in connection with anti-social behaviour

191 Secure tenancies: withholding of consent to mutual exchange

- (1) In Schedule 3 to the Housing Act 1985 (c. 68) (grounds for withholding consent to assignment by way of exchange) after Ground 2 insert—

“Ground 2A

Either—

- (a) a relevant order or suspended Ground 2 or 14 possession order is in force, or
- (b) an application is pending before any court for a relevant order, a demotion order or a Ground 2 or 14 possession order to be made,

in respect of the tenant or the proposed assignee or a person who is residing with either of them.

A “relevant order” means—

- an injunction under section 152 of the Housing Act 1996 (injunctions against anti-social behaviour);
- an injunction to which a power of arrest is attached by virtue of section 153 of that Act (other injunctions against anti-social behaviour);
- an injunction under section 153A, 153B or 153D of that Act (injunctions against anti-social behaviour on application of certain social landlords);

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an anti-social behaviour order under section 1 of the Crime and Disorder Act 1998; or

an injunction to which a power of arrest is attached by virtue of section 91 of the Anti-social Behaviour Act 2003.

A “demotion order” means a demotion order under section 82A of this Act or section 6A of the Housing Act 1988.

A “Ground 2 or 14 possession order” means an order for possession under Ground 2 in Schedule 2 to this Act or Ground 14 in Schedule 2 to the Housing Act 1988.

Where the tenancy of the tenant or the proposed assignee is a joint tenancy, any reference to that person includes (where the context permits) a reference to any of the joint tenants.”

- (2) The amendment made by this section applies in relation to applications for consent under section 92 of that Act (assignments by way of exchange) which are made on or after the day on which this section comes into force.

192 Right to buy: suspension by court order

- (1) In section 121 of the Housing Act 1985 (circumstances in which right to buy cannot be exercised), after subsection (2) insert—

“(3) The right to buy cannot be exercised at any time during the suspension period under an order made under section 121A in respect of the secure tenancy.”

- (2) After section 121 of that Act insert—

“121A Order suspending right to buy because of anti-social behaviour

- (1) The court may, on the application of the landlord under a secure tenancy, make a suspension order in respect of the tenancy.
- (2) A suspension order is an order providing that the right to buy may not be exercised in relation to the dwelling-house during such period as is specified in the order (“the suspension period”).
- (3) The court must not make a suspension order unless it is satisfied—
- (a) that the tenant, or a person residing in or visiting the dwelling-house, has engaged or threatened to engage in conduct to which section 153A or 153B of the Housing Act 1996 applies (anti-social behaviour or use of premises for unlawful purposes), and
 - (b) that it is reasonable to make the order.
- (4) When deciding whether it is reasonable to make the order, the court must consider, in particular—
- (a) whether it is desirable for the dwelling-house to be managed by the landlord during the suspension period; and
 - (b) where the conduct mentioned in subsection (3)(a) consists of conduct by a person which is capable of causing nuisance or annoyance, the effect that the conduct (or the threat of it) has had on other persons, or would have if repeated.
- (5) Where a suspension order is made—

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- (a) any existing claim to exercise the right to buy in relation to the dwelling-house ceases to be effective as from the beginning of the suspension period, and
 - (b) section 138(1) shall not apply to the landlord, in connection with such a claim, at any time after the beginning of that period, but
 - (c) the order does not affect the computation of any period in accordance with Schedule 4.
- (6) The court may, on the application of the landlord, make (on one or more occasions) a further order which extends the suspension period under the suspension order by such period as is specified in the further order.
- (7) The court must not make such a further order unless it is satisfied—
 - (a) that, since the making of the suspension order (or the last order under subsection (6)), the tenant, or a person residing in or visiting the dwelling-house, has engaged or threatened to engage in conduct to which section 153A or 153B of the Housing Act 1996 applies, and
 - (b) that it is reasonable to make the further order.
- (8) When deciding whether it is reasonable to make such a further order, the court must consider, in particular—
 - (a) whether it is desirable for the dwelling-house to be managed by the landlord during the further period of suspension; and
 - (b) where the conduct mentioned in subsection (7)(a) consists of conduct by a person which is capable of causing nuisance or annoyance, the effect that the conduct (or the threat of it) has had on other persons, or would have if repeated.
- (9) In this section any reference to the tenant under a secure tenancy is, in relation to a joint tenancy, a reference to any of the joint tenants.”
- (3) Regulations under—
 - (a) section 171C of that Act (modifications of Part 5 in relation to preserved right to buy), or
 - (b) section 17 of the Housing Act 1996 (c. 52) (application of that Part in relation to right to acquire dwelling),may make provision for continuing the effect of a suspension order where the secure tenancy in respect of which the order was made has been replaced by an assured tenancy.

193 Right to buy: suspension of landlord’s obligation to complete

- (1) In section 138 of the Housing Act 1985 (c. 68) (duty of landlord to convey freehold or grant lease) after subsection (2) insert—
 - “(2A) Subsection (2B) applies if an application is pending before any court—
 - (a) for a demotion order or Ground 2 possession order to be made in respect of the tenant, or
 - (b) for a suspension order to be made in respect of the tenancy.
 - (2B) The landlord is not bound to comply with subsection (1) until such time (if any) as the application is determined without—

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- (a) a demotion order or an operative Ground 2 possession order being made in respect of the tenant, or
 - (b) a suspension order being made in respect of the tenancy,
- or the application is withdrawn.

(2C) For the purposes of subsection (2A) and (2B)—

“demotion order” means a demotion order under section 82A;

“Ground 2 possession order” means an order for possession under Ground 2 in Schedule 2;

“operative Ground 2 possession order” means an order made under that Ground which requires possession of the dwelling-house to be given up on a date specified in the order;

“suspension order” means a suspension order under section 121A.

(2D) Subsection (1) has effect subject to section 121A(5) (disapplication of subsection (1) where suspension order is made).”

- (2) The amendment made by this section does not apply in any case where the tenant’s notice under section 122 of that Act (notice claiming to exercise right to buy) was served before the day on which this section comes into force.

194 Disclosure of information as to orders etc. in respect of anti-social behaviour

(1) Any person may disclose relevant information to a landlord under a secure tenancy if the information is disclosed for the purpose of enabling the landlord—

- (a) to decide whether either of the provisions of the Housing Act 1985 (c. 68) mentioned in subsection (2) can be invoked in relation to the tenant under the tenancy; or
- (b) to take any appropriate action in relation to the tenant in reliance on either of those provisions.

(2) The provisions are—

- (a) Ground 2A in Schedule 3 (withholding of consent to mutual exchange where order in force or application pending in connection with anti-social behaviour), and
- (b) section 138(2B) (landlord’s obligation to complete suspended while application pending in connection with such behaviour).

(3) In this section—

- (a) “relevant information” means information relating to any order or application relevant for the purposes of either of the provisions mentioned in subsection (2), including (in particular) information identifying the person in respect of whom any such order or application has been made;
- (b) “secure tenancy” has the meaning given by section 79 of the Housing Act 1985; and
- (c) any reference to the tenant under a secure tenancy is, in relation to a joint tenancy, a reference to any of the joint tenants.

(4) Regulations under—

- (a) section 171C of the Housing Act 1985 (modifications of Part 5 in relation to preserved right to buy), or

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(b) section 17 of the Housing Act 1996 (c. 52) (application of that Part in relation to right to acquire dwelling),
may make provision corresponding to subsections (1) to (3) of this section so far as those subsections relate to section 138(2B) of the Housing Act 1985.