



# Small Business, Enterprise and Employment Act 2015

## 2015 CHAPTER 26

### PART 2

#### REGULATORY REFORM

##### *Home businesses*

#### **35 Exclusion of home businesses from Part 2 of the Landlord and Tenant Act 1954**

- (1) Part 2 of the Landlord and Tenant Act 1954 (security of tenure for business, professional and other tenants) is amended as follows.
- (2) In section 23(4) (tenancies to which Part 2 applies) at the beginning insert “ Subject to subsection (5), ”.
- (3) After section 23(4) insert—
  - “(5) Where the tenant's breach of a prohibition (however expressed) of use for business purposes which subsists under the terms of the tenancy and extends to the whole of that property consists solely of carrying on a home business, this Part of this Act does not apply to the tenancy, even if the immediate landlord or the immediate landlord's predecessor in title has consented to the breach or the immediate landlord has acquiesced in the breach.
  - (6) In subsection (5) “home business” has the same meaning as in section 43ZA.”
- (4) After section 43 (tenancies excluded from Part 2), insert—

#### **“43ZA Further exclusion of home business tenancies from Part 2**

- (1) This Part of this Act does not apply to a home business tenancy.
- (2) A home business tenancy is a tenancy under which—

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*Status: Point in time view as at 01/10/2015.*

**Changes to legislation:** *There are currently no known outstanding effects for the Small Business, Enterprise and Employment Act 2015, Cross Heading: Home businesses. (See end of Document for details)*

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- (a) a dwelling-house is let as a separate dwelling,
  - (b) the tenant or, where there are joint tenants, each of them, is an individual, and
  - (c) the terms of the tenancy—
    - (i) require the tenant or, where there are joint tenants, at least one of them, to occupy the dwelling-house as a home (whether or not as that individual's only or principal home),
    - (ii) permit a home business to be carried on in the dwelling-house, or permit the immediate landlord to give consent for a home business to be carried on in the dwelling-house, and
    - (iii) do not permit a business other than a home business to be carried on in the dwelling-house.
- (3) The terms of a tenancy permit the carrying on of a home business if they permit the carrying on of a particular home business, a particular description of home business or any home business.
- (4) A “home business” is a business of a kind which might reasonably be carried on at home.
- (5) A business is not to be treated as a home business if it involves the supply of alcohol for consumption on licensed premises which form all or part of the dwelling-house.
- (6) The appropriate national authority may by regulations prescribe cases in which businesses are, or are not, to be treated as home businesses.
- (7) Regulations under this section—
- (a) may include transitional or saving provision,
  - (b) may make different provision for different purposes,
  - (c) are to be made by statutory instrument,
  - (d) may not be made unless—
    - (i) in the case of regulations made by the Secretary of State, a draft of the statutory instrument containing the regulations has been laid before Parliament and approved by a resolution of each House of Parliament,
    - (ii) in the case of regulations made by the Welsh Ministers, a draft of the statutory instrument containing the regulations has been laid before, and approved by a resolution of, the National Assembly for Wales.
- (8) For the purposes of this section, a dwelling-house which is let for mixed residential and business use is capable of being let as a dwelling.
- (9) If, under a tenancy, a dwelling-house is let together with other land, then, for the purposes of this section—
- (a) if the main purpose of the letting is the provision of a home for the tenant, the other land is to be treated as part of the dwelling-house, and
  - (b) if the main purpose of the letting is not as mentioned in paragraph (a), the tenancy is to be treated as not being one under which a dwelling-house is let as a separate dwelling.
- (10) In this section—

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“the appropriate national authority” means—

(a) in relation to England, the Secretary of State, and

(b) in relation to Wales, the Welsh Ministers;

“dwelling-house” may be a house or part of a house;

“let” includes sub-let;

“licensed premises” has the same meaning as in the Licensing Act 2003 (see section 193 of that Act);

“supply of alcohol” has the same meaning as in the Licensing Act 2003 (see section 14 of that Act).”

(5) Subsections (1) to (4) do not apply to—

(a) a tenancy which is entered into before the day on which this section comes into force;

(b) a tenancy which is entered into on or after the day on which this section comes into force, pursuant to a contract made before that day;

(c) a tenancy which arises by operation of any enactment or other law when a tenancy mentioned in paragraph (a) or (b) comes to an end.

#### Commencement Information

**I1** S. 35 in force at 1.10.2015 for W. by S.I. 2015/1710, art. 2(a)

**I2** S. 35 in force at 1.10.2015 for E. by S.I. 2015/1689, reg. 2(b)

### 36 Section 35: supplementary and consequential provision

(1) In section 41 of the Landlord and Tenant Act 1954 (trusts), after subsection (2) insert—

“(3) Where a tenancy is held on trust, section 43ZA(2) has effect as if—

(a) paragraph (b) were omitted, and

(b) the condition in paragraph (c)(i) were a condition that the terms of the tenancy require at least one individual who is a trustee or a beneficiary under the trust to occupy the dwelling-house as a home (whether or not as that individual's only or principal home).”

(2) A dwelling-house which is let under a home business tenancy is to be regarded as being “let as a separate dwelling” for the purposes of—

(a) section 1 of the Rent Act 1977 (protected tenancies),

(b) section 79 of the Housing Act 1985 (secure tenancies),

(c) section 1 of the Housing Act 1988 (assured tenancies), and

(d) any other England and Wales enactment relating to protected, secure or assured tenancies.

(3) Subsections (1) and (2) do not apply to the tenancies mentioned in section 35(3)(5).

(4) Subsections (2) and (3) do not limit the circumstances in which a dwelling-house which is let under a home business tenancy is to be regarded as “let as a separate dwelling”.

(5) In this section—

“enactment” includes provision made—

(a) under an Act, or

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- (b) by or under a Measure or Act of the National Assembly for Wales,  
“England and Wales enactment” means any enactment so far as it forms part of the law of England and Wales,  
“home business tenancy” has the same meaning as in section 43ZA of the Landlord and Tenant Act 1954.

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**Commencement Information**

- I3** S. 36 in force at 1.10.2015 for E. by S.I. 2015/1689, **reg. 2(b)**  
**I4** S. 36 in force at 1.10.2015 for W. by S.I. 2015/1710, **art. 2(b)**

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