



Immigration Act 2016

2016 CHAPTER 19

PART 2

ACCESS TO SERVICES

Residential tenancies

40 Eviction

- (1) The Immigration Act 2014 is amended in accordance with subsections (2) to (4).
- (2) After section 33C (inserted by section 39) insert—

“Eviction

33D Termination of agreement where all occupiers disqualified

- (1) The landlord under a residential tenancy agreement relating to premises in England may terminate the agreement in accordance with this section if the condition in subsection (2) is met.
- (2) The condition is that the Secretary of State has given one or more notices in writing to the landlord which, taken together,—
 - (a) identify the occupier of the premises or (if there is more than one occupier) all of them, and
 - (b) state that the occupier or occupiers are disqualified as a result of their immigration status from occupying premises under a residential tenancy agreement.
- (3) The landlord may terminate the residential tenancy agreement by giving notice in writing and in the prescribed form to the tenant or, in the case of a joint tenancy, all of the tenants specifying the date on which the agreement comes to an end.

Changes to legislation: Immigration Act 2016, Section 40 is up to date with all changes known to be in force on or before 08 August 2023. There are changes that may be brought into force at a future date. Changes that have been made appear in the content and are referenced with annotations. (See end of Document for details) View outstanding changes

- (4) That date must not be earlier than the end of the period of 28 days beginning with the day specified in the notice as the day on which it is given.
- (5) The notice may be given—
 - (a) by delivering it to the tenant or tenants,
 - (b) by leaving it at the premises,
 - (c) by sending it by post to the tenant or tenants at the address of the premises, or
 - (d) in any other prescribed manner.
- (6) The notice is to be treated as a notice to quit in a case where a notice to quit would otherwise be required to bring the residential tenancy agreement to an end.
- (7) The notice is enforceable as if it were an order of the High Court.
- (8) In this section “occupier”, in relation to premises to which a residential tenancy agreement applies, means—
 - (a) a tenant,
 - (b) a person who, under the agreement, otherwise has the right to occupy the premises and is named in the agreement, and
 - (c) any other person who the landlord knows is occupying the premises.

33E Other procedures for ending agreement

- (1) It is an implied term of a residential tenancy agreement to which this subsection applies that the landlord may terminate the tenancy if the premises to which it relates are occupied by an adult who is disqualified as a result of their immigration status from occupying premises under a residential tenancy agreement.
- (2) Subsection (1) applies to a residential tenancy agreement relating to premises in England if—
 - (a) it is a tenancy or sub-tenancy or an agreement for a tenancy or sub-tenancy, but
 - (b) it is not a protected or statutory tenancy within the meaning of the Rent Act 1977 or an assured tenancy within the meaning of the Housing Act 1988.
- (3) For provision relating to a residential tenancy agreement which is a protected or statutory tenancy where a tenant or occupier is disqualified as a result of their immigration status from occupying premises under a residential tenancy agreement, see Case 10A in Part 1 of Schedule 15 to the Rent Act 1977.
- (4) For provision relating to a residential tenancy agreement which is an assured tenancy where a tenant or occupier is disqualified as a result of their immigration status from occupying premises under a residential tenancy agreement, see Ground 7B in Part 1 of Schedule 2 to the Housing Act 1988.”
- (3) In section 35 (transitional provision) after subsection (6) (inserted by section 39(3)) insert—

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- “(7) Sections 33D and 33E apply in relation to a residential tenancy agreement entered into before or after the coming into force of section 40 of the Immigration Act 2016 (which inserted those sections into this Act).”
- (4) In section 37(4)(a) (provisions in which references to the landlord are to any of them) after sub-paragraph (iv) (inserted by section 39(5)(b)) insert—
- “(v) section 33D, and
(vi) section 33E.”.
- (5) In section 3A of the Protection from Eviction Act 1977 (excluded tenancies and licences) after subsection (7C) insert—
- “(7D) A tenancy or licence is excluded if—
- (a) it is a residential tenancy agreement within the meaning of Chapter 1 of Part 3 of the Immigration Act 2014, and
- (b) the condition in section 33D(2) of that Act is met in relation to that agreement.”
- (6) In section 5 of the Housing Act 1988 (security of tenure)—
- (a) in subsection (1) omit the “or” at the end of paragraph (b) and at the end of paragraph (c) insert “, or
- (d) in the case of an assured tenancy—
- (i) which is a residential tenancy agreement within the meaning of Chapter 1 of Part 3 of the Immigration Act 2014, and
- (ii) in relation to which the condition in section 33D(2) of that Act is met,
- giving a notice in accordance with that section.”, and
- (b) in subsection (2) omit the “or” at the end of paragraph (a) and at the end of paragraph (b) insert “, or
- (c) the giving of a notice under section 33D of the Immigration Act 2014.”.
- (7) The amendments made by subsections (5) and (6) apply in relation to a tenancy or (in the case of subsection (5)) a licence entered into before or after the coming into force of this section.

Commencement Information

- I1** [S. 40](#) in force at 1.11.2016 for specified purposes by [S.I. 2016/1037](#), [reg. 2\(b\)](#)
- I2** [S. 40](#) in force at 1.12.2016 in so far as not already in force by [S.I. 2016/1037](#), [reg. 5\(d\)](#)

Changes to legislation:

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Changes and effects yet to be applied to :

- specified provision(s) amendment to earlier commencing S.I. 2017/1241, Sch. by [S.I. 2018/31 reg. 2](#)