



Landlord and Tenant Act 1954

1954 CHAPTER 56 2 and 3 Eliz 2

PART II

SECURITY OF TENURE FOR BUSINESS, PROFESSIONAL AND OTHER TENANTS

Application to court for new tenancies

[^{F1}29. Order by court for grant of new tenancy or termination of current tenancy

- (1) Subject to the provisions of this Act, on an application under section 24(1) of this Act, the court shall make an order for the grant of a new tenancy and accordingly for the termination of the current tenancy immediately before the commencement of the new tenancy.
- (2) Subject to the following provisions of this Act, a landlord may apply to the court for an order for the termination of a tenancy to which this Part of this Act applies without the grant of a new tenancy—
 - (a) if he has given notice under section 25 of this Act that he is opposed to the grant of a new tenancy to the tenant; or
 - (b) if the tenant has made a request for a new tenancy in accordance with section 26 of this Act and the landlord has given notice under subsection (6) of that section.
- (3) The landlord may not make an application under subsection (2) above if either the tenant or the landlord has made an application under section 24(1) of this Act.
- (4) Subject to the provisions of this Act, where the landlord makes an application under subsection (2) above—
 - (a) if he establishes, to the satisfaction of the court, any of the grounds on which he is entitled to make the application in accordance with section 30 of this Act, the court shall make an order for the termination of the current tenancy in accordance with section 64 of this Act without the grant of a new tenancy; and

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- (b) if not, it shall make an order for the grant of a new tenancy and accordingly for the termination of the current tenancy immediately before the commencement of the new tenancy.
- (5) The court shall dismiss an application by the landlord under section 24(1) of this Act if the tenant informs the court that he does not want a new tenancy.
- (6) The landlord may not withdraw an application under subsection (2) above unless the tenant consents to its withdrawal.]

Textual Amendments

F1 S. 29 substituted (1.6.2004) by [Regulatory Reform \(Business Tenancies\) \(England and Wales\) Order 2003 \(S.I. 2003/3096\)](#), arts. 1(3), 5

[^{F2}29A. *Time limits for applications to court*

- (1) Subject to section 29B of this Act, the court shall not entertain an application—
 - (a) by the tenant or the landlord under section 24(1) of this Act; or
 - (b) by the landlord under section 29(2) of this Act,
 if it is made after the end of the statutory period.
- (2) In this section and section 29B of this Act “the statutory period” means a period ending—
 - (a) where the landlord gave a notice under section 25 of this Act, on the date specified in his notice; and
 - (b) where the tenant made a request for a new tenancy under section 26 of this Act, immediately before the date specified in his request.
- (3) Where the tenant has made a request for a new tenancy under section 26 of this Act, the court shall not entertain an application under section 24(1) of this Act which is made before the end of the period of two months beginning with the date of the making of the request, unless the application is made after the landlord has given a notice under section 26(6) of this Act.]

Textual Amendments

F2 S. 29A inserted (1.6.2004) by [Regulatory Reform \(Business Tenancies\) \(England and Wales\) Order 2003 \(S.I. 2003/3096\)](#), arts. 1(3), 10

[^{F3}29B. *Agreements extending time limits*

- (1) After the landlord has given a notice under section 25 of this Act, or the tenant has made a request under section 26 of this Act, but before the end of the statutory period, the landlord and tenant may agree that an application such as is mentioned in section 29A(1) of this Act, may be made before the end of a period specified in the agreement which will expire after the end of the statutory period.
- (2) The landlord and tenant may from time to time by agreement further extend the period for making such an application, but any such agreement must be made before the end of the period specified in the current agreement.

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- (3) Where an agreement is made under this section, the court may entertain an application such as is mentioned in section 29A(1) of this Act if it is made before the end of the period specified in the agreement.
- (4) Where an agreement is made under this section, or two or more agreements are made under this section, the landlord's notice under section 25 of this Act or tenant's request under section 26 of this Act shall be treated as terminating the tenancy at the end of the period specified in the agreement or, as the case may be, at the end of the period specified in the last of those agreements.]

Textual Amendments

- F3** S. 29B inserted (1.6.2004) by [Regulatory Reform \(Business Tenancies\) \(England and Wales\) Order 2003 \(S.I. 2003/3096\)](#), arts. 1(3), 10

[^{F4}30] **Opposition by landlord to application for new tenancy.**

- (1) The grounds on which a landlord may oppose an application under [^{F5}section 24(1) of this Act, or make an application under section 29(2) of this Act,] are such of the following grounds as may be stated in the landlord's notice under section 25 of this Act or, as the case may be, under subsection (6) of section 26 thereof, that is to say:—
 - (a) where under the current tenancy the tenant has any obligations as respects the repair and maintenance of the holding, that the tenant ought not to be granted a new tenancy in view of the state of repair of the holding, being a state resulting from the tenant's failure to comply with the said obligations;
 - (b) that the tenant ought not to be granted a new tenancy in view of his persistent delay in paying rent which has become due;
 - (c) that the tenant ought not to be granted a new tenancy in view of other substantial breaches by him of his obligations under the current tenancy, or for any other reason connected with the tenant's use or management of the holding;
 - (d) that the landlord has offered and is willing to provide or secure the provision of alternative accommodation for the tenant, that the terms on which the alternative accommodation is available are reasonable having regard to the terms of the current tenancy and to all other relevant circumstances, and that the accommodation and the time at which it will be available are suitable for the tenant's requirements (including the requirement to preserve goodwill) having regard to the nature and class of his business and to the situation and extent of, and facilities afforded by, the holding;
 - (e) where the current tenancy was created by the sub-letting of part only of the property comprised in a superior tenancy and the landlord is the owner of an interest in reversion expectant on the termination of that superior tenancy, that the aggregate of the rents reasonably obtainable on separate lettings of the holding and the remainder of that property would be substantially less than the rent reasonably obtainable on a letting of that property as a whole, that on the termination of the current tenancy the landlord requires possession of the holding for the purpose of letting or otherwise disposing of the said property as a whole, and that in view thereof the tenant ought not to be granted a new tenancy;

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- (f) that on the termination of the current tenancy the landlord intends to demolish or reconstruct the premises comprised in the holding or a substantial part of those premises or to carry out substantial work of construction on the holding or part thereof and that he could not reasonably do so without obtaining possession of the holding;
- (g) subject as hereinafter provided, that on the termination of the current tenancy the landlord intends to occupy the holding for the purposes, or partly for the purposes, of a business to be carried on by him therein, or as his residence.

[Where the landlord has a controlling interest in a company, the reference in ^{F6}(1A) subsection (1)(g) above to the landlord shall be construed as a reference to the landlord or that company.

(1B) Subject to subsection (2A) below, where the landlord is a company and a person has a controlling interest in the company, the reference in subsection (1)(g) above to the landlord shall be construed as a reference to the landlord or that person.]

(2) The landlord shall not be entitled to oppose an application^{F7} under section 24(1) of this Act, or make an application under section 29(2) of this Act,] on the ground specified in paragraph (g) of the last foregoing subsection if the interest of the landlord, or an interest which has merged in that interest and but for the merger would be the interest of the landlord, was purchased or created after the beginning of the period of five years which ends with the termination of the current tenancy, and at all times since the purchase or creation thereof the holding has been comprised in a tenancy or successive tenancies of the description specified in subsection (1) of section 23 of this Act.

[Subsection (1B) above shall not apply if the controlling interest was acquired after the ^{F8}(2A) beginning of the period of five years which ends with the termination of the current tenancy, and at all times since the acquisition of the controlling interest the holding has been comprised in a tenancy or successive tenancies of the description specified in section 23(1) of this Act.]

^{F9}(3)]

Textual Amendments

- F4** S. 30 substituted by virtue of Law of Property Act 1969 (c. 59) , s. 15 , **Sch. 1**
- F5** Words in s. 30(1) substituted (1.6.2004) by Regulatory Reform (Business Tenancies) (England and Wales) Order 2003 (S.I. 2003/3096) , arts. 1(3) , **6(1)**
- F6** S. 30(1A)(1B) inserted (1.6.2004) by Regulatory Reform (Business Tenancies) (England and Wales) Order 2003 (S.I. 2003/3096) , arts. 1(3) , **14(1)**
- F7** Words in s. 30(2) inserted (1.6.2004) by Regulatory Reform (Business Tenancies) (England and Wales) Order 2003 (S.I. 2003/3096) , arts. 1(3) , **6(2)**
- F8** S. 30(2A) inserted (1.6.2004) by Regulatory Reform (Business Tenancies) (England and Wales) Order 2003 (S.I. 2003/3096) , arts. 1(3) , **14(2)**
- F9** S. 30(3) repealed (1.6.2004) by Regulatory Reform (Business Tenancies) (England and Wales) Order 2003 (S.I. 2003/3096) , art. 1(3) , **Sch. 6**

Modifications etc. (not altering text)

- C1** S. 30(2) excluded by: 1993 c. xviii , s. **13(a)** ; 1994 c. xiv , s. **9(1)** ; 1996 c. ii , s. **11(1)**
S. 30(2) excluded by 1994 c. v , s. 1 , **Sch.** , s. 24(1)(a)
S. 30(2) excluded by 1998 c. v , **ss. 3** , 13(1)(a) .
S. 30(2) excluded by 1999 c. iv , s. **13(1)(a)**
S. 30(2) excluded by 2000 c. iii , **ss. 14(a)** , 16

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- S. 30(2) excluded by [2001 c. i, s. 11\(a\)](#) (with s. 13)
- S. 30(2) excluded by [2001 c. v, s. 15\(1\)\(a\)](#)
- C2** S. 30(2) excluded (coming into force in accordance with s. 4 of the amending Act) by [Barclays Group Reorganisation Act 2002 \(c. iv\)](#), { s.14(1)(a)}
- C3** S. 30(2) excluded (coming into force in accordance with s. 4 of the amending Act) by [HSBC Investment Banking Act 2002 \(c. iii\)](#), [s.14\(1\)\(a\)](#)
- C4** S. 30(2) excluded (21.6.2006) by [HBOS Group Reorganisation Act 2006 \(c. i\)](#), [s. 21\(1\)](#)

31 Dismissal of application for new tenancy where landlord successfully opposes.

- (1) If the landlord opposes an application under subsection (1) of section twenty-four of this Act on grounds on which he is entitled to oppose it in accordance with the last foregoing section and establishes any of those grounds to the satisfaction of the court, the court shall not make an order for the grant of a new tenancy.
- (2) ^{F10}Where the landlord opposes an application under section 24(1) of this Act, or makes an application under section 29(2) of this Act, on one or more of the grounds specified in section 30(1)(d) to (f) of this Act but establishes none of those grounds, and none of the other grounds specified in section 30(1) of this Act, to the satisfaction of the court, then if the court would have been satisfied on any of the grounds specified in section 30(1)(d) to (f) of this Act] if the date of termination specified in the landlord's notice or, as the case may be, the date specified in the tenant's request for a new tenancy as the date from which the new tenancy is to begin, had been such later date as the court may determine, being a date not more than one year later than the date so specified,—
 - (a) the court shall make a declaration to that effect, stating of which of the said grounds the court would have been satisfied as aforesaid and specifying the date determined by the court as aforesaid, but shall not make an order for the grant of a new tenancy;
 - (b) if, within fourteen days after the making of the declaration, the tenant so requires the court shall make an order substituting the said date for the date specified in the said landlord's notice or tenant's request, and thereupon that notice or request shall have effect accordingly.

Textual Amendments

- F10** Words in s. 31(2) substituted (1.6.2004) by [Regulatory Reform \(Business Tenancies\) \(England and Wales\) Order 2003 \(S.I. 2003/3096\)](#), arts. 1(3), 7

^{F11}31A Grant of new tenancy in some cases where s. 30(1)(f) applies.

- (1) Where the landlord opposes an application under section 24(1) of this Act on the ground specified in paragraph (f) of section 30(1) of this Act^{F12}, or makes an application under section 29(2) of this Act on that ground,] the court shall not hold that the landlord could not reasonably carry out the demolition, reconstruction or work of construction intended without obtaining possession of the holding if—
 - (a) the tenant agrees to the inclusion in the terms of the new tenancy of terms giving the landlord access and other facilities for carrying out the work intended and, given that access and those facilities, the landlord could reasonably carry out the work without obtaining possession of the holding and without interfering to a substantial extent or for a substantial time with the use of the holding for the purposes of the business carried on by the tenant; or

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- (b) the tenant is willing to accept a tenancy of an economically separable part of the holding and either paragraph (a) of this section is satisfied with respect to that part or possession of the remainder of the holding would be reasonably sufficient to enable the landlord to carry out the intended work.
- (2) For the purposes of subsection (1)(b) of this section a part of a holding shall be deemed to be an economically separate part if, and only if, the aggregate of the rents which, after the completion of the intended work, would be reasonably obtainable on separate lettings of that part and the remainder of the premises affected by or resulting from the work would not be substantially less than the rent which would then be reasonably obtainable on a letting of those premises as a whole.]

Textual Amendments

- F11** S. 31A inserted by [Law of Property Act 1969 \(c. 59\), s. 7\(1\)](#)
- F12** Words in s. 31A(1) inserted (1.6.2004) by [Regulatory Reform \(Business Tenancies\) \(England and Wales\) Order 2003 \(S.I. 2003/3096\), arts. 1\(3\), 8](#)

[^{F13}32] **Property to be comprised in new tenancy.**

- (1) Subject to the following provisions of this section, an order under section 29 of this Act for the grant of a new tenancy shall be an order for the grant of a new tenancy of the holding; and in the absence of agreement between the landlord and the tenant as to the property which constitutes the holding the court shall in the order designate that property by reference to the circumstances existing at the date of the order.
- (1A) Where the court, by virtue of paragraph (b) of section 31A(1) of this Act, makes an order under section 29 of this Act for the grant of a new tenancy in a case where the tenant is willing to accept a tenancy of part of the holding, the order shall be an order for the grant of a new tenancy of that part only.
- (2) The foregoing provisions of this section shall not apply in a case where the property comprised in the current tenancy includes other property besides the holding and the landlord requires any new tenancy ordered to be granted under section 29 of this Act to be a tenancy of the whole of the property comprised in the current tenancy; but in any such case—
- (a) any order under the said section 29 for the grant of a new tenancy shall be an order for the grant of a new tenancy of the whole of the property comprised in the current tenancy, and
- (b) references in the following provisions of this Part of this Act to the holding shall be construed as references to the whole of that property.
- (3) Where the current tenancy includes rights enjoyed by the tenant in connection with the holding, those rights shall be included in a tenancy ordered to be granted under section 29 of this Act, except as otherwise agreed between the landlord and the tenant or, in default of such agreement, determined by the court.]

Textual Amendments

- F13** S. 32 substituted by virtue of [Law of Property Act 1969 \(c. 59\), s. 15, Sch. 1](#)

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33 Duration of new tenancy.

Where on an application under this Part of this Act the court makes an order for the grant of a new tenancy, the new tenancy shall be such tenancy as may be agreed between the landlord and the tenant, or, in default of such an agreement, shall be such a tenancy as may be determined by the court to be reasonable in all the circumstances, being, if it is a tenancy for a term of years certain, a tenancy for a term not exceeding [^{F14} fifteen] years, and shall begin on the coming to an end of the current tenancy.

Textual Amendments

F14 Word in s. 33 substituted (1.6.2004) by [Regulatory Reform \(Business Tenancies\) \(England and Wales\) Order 2003 \(S.I. 2003/3096\)](#), arts. 1(3), 26

[^{F15}34 Rent under new tenancy.

(1) The rent payable under a tenancy granted by order of the court under this Part of this Act shall be such as may be agreed between the landlord and the tenant or as, in default of such agreement, may be determined by the court to be that at which, having regard to the terms of the tenancy (other than those relating to rent), the holding might reasonably be expected to be let in the open market by a willing lessor, there being disregarded—

- (a) any effect on rent of the fact that the tenant has or his predecessors in title have been in occupation of the holding,
- (b) any goodwill attached to the holding by reason of the carrying on thereat of the business of the tenant (whether by him or by a predecessor of his in that business),
- (c) any effect on rent of an improvement to which this paragraph applies,
- (d) in the case of a holding comprising licensed premises, any addition to its value attributable to the licence, if it appears to the court that having regard to the terms of the current tenancy and any other relevant circumstances the benefit of the licence belongs to the tenant.

(2) Paragraph (c) of the foregoing subsection applies to any improvement carried out by a person who at the time it was carried out was the tenant, but only if it was carried out otherwise than in pursuance of an obligation to his immediate landlord and either it was carried out during the current tenancy or the following conditions are satisfied, that is to say,—

- (a) that it was completed not more than twenty-one years before the application [^{F16}to the court] was made; and
- (b) that the holding or any part of it affected by the improvement has at all times since the completion of the improvement been comprised in tenancies of the description specified in section 23(1) of this Act; and
- (c) that at the termination of each of those tenancies the tenant did not quit.

[If this Part of this Act applies by virtue of section 23(1A) of this Act, the reference in [^{F17}(2A) subsection (1)(d) above to the tenant shall be construed as including—

- (a) a company in which the tenant has a controlling interest, or
- (b) where the tenant is a company, a person with a controlling interest in the company.]

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(3) Where the rent is determined by the court the court may, if it thinks fit, further determine that the terms of the tenancy shall include such provision for varying the rent as may be specified in the determination.]

[^{F18}(4) It is hereby declared that the matters which are to be taken into account by the court in determining the rent include any effect on rent of the operation of the provisions of the Landlord and Tenant (Covenants) Act 1995.]

Textual Amendments

- F15** S. 34 substituted by virtue of Law of Property Act 1969 (c. 59), s. 15, **Sch. 1**
- F16** Words in s. 34(2)(a) substituted (1.6.2004) by Regulatory Reform (Business Tenancies) (England and Wales) Order 2003 (S.I. 2003/3096), arts. 1(3), **9**
- F17** S. 34(2A) inserted (1.6.2004) by Regulatory Reform (Business Tenancies) (England and Wales) Order 2003 (S.I. 2003/3096), arts. 1(3), **15**
- F18** S. 34(4) inserted (1.1.1996) by 1995 c. 30, s. 30(1), **Sch. 1 para. 3** (with ss. 2(2), 26(1)(2)); S.I. 1995/2963, **art. 2**

^{F19}35 Other terms of new tenancy.

[(1)] The terms of a tenancy granted by order of the court under this Part of this Act (other than terms as to the duration thereof and as to the rent payable thereunder)^{F20}, including, where different persons own interests which fulfil the conditions specified in section 44(1) of this Act in different parts of it, terms as to the apportionment of the rent,] shall be such as may be agreed between the landlord and the tenant or as, in default of such agreement, may be determined by the court; and in determining those terms the court shall have regard to the terms of the current tenancy and to all relevant circumstances.

[^{F21}(2) In subsection (1) of this section the reference to all relevant circumstances includes (without prejudice to the generality of that reference) a reference ^{F19} to the operation of the provisions of the Landlord and Tenant (Covenants) Act 1995.]

Textual Amendments

- F19** S. 35 renumbered as s. 35(1) (1.6.1996) by virtue of 1995 c. 30, s. 30(1), **Sch. 1 para. 4(1)** (with ss. 2(2), 26(1)(2)); S.I. 1995/2963, **art. 2**
- F20** Words in s. 35(1) inserted (1.6.2004) by Regulatory Reform (Business Tenancies) (England and Wales) Order 2003 (S.I. 2003/3096), arts. 1(3), **27(3)**
- F21** S. 35(2) inserted (1.6.1996) by 1995 c. 30, s. 30(1), **Sch. 1 para. 4(2)** (with ss. 2(2), 26(1)(2)); S.I. 1995/2963, **art. 2**

Modifications etc. (not altering text)

- C5** S. 35 amended by Opencast Coal Act 1958 (c. 69), s. 37, **Sch. 7 para. 22(3)**

36 Carrying out of order for new tenancy.

(1) Where under this Part of this Act the court makes an order for the grant of a new tenancy, then, unless the order is revoked under the next following subsection or the landlord and the tenant agree not to act upon the order, the landlord shall be bound to execute or make in favour of the tenant, and the tenant shall be bound to accept, a lease

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or agreement for a tenancy of the holding embodying the terms agreed between the landlord and the tenant or determined by the court in accordance with the foregoing provisions of this Part of this Act; and where the landlord executes or makes such a lease or agreement the tenant shall be bound, if so required by the landlord, to execute a counterpart or duplicate thereof.

- (2) If the tenant, within fourteen days after the making of an order under this Part of this Act for the grant of a new tenancy, applies to the court for the revocation of the order the court shall revoke the order; and where the order is so revoked, then, if it is so agreed between the landlord and the tenant or determined by the court, the current tenancy shall continue, beyond the date at which it would have come to an end apart from this subsection, for such period as may be so agreed or determined to be necessary to afford to the landlord a reasonable opportunity for reletting or otherwise disposing of the premises which would have been comprised in the new tenancy; and while the current tenancy continues by virtue of this subsection it shall not be a tenancy to which this Part of this Act applies.
- (3) Where an order is revoked under the last foregoing subsection any provision thereof as to payment of costs shall not cease to have effect by reason only of the revocation; but the court may, if it thinks fit, revoke or vary any such provision or, where no costs have been awarded in the proceedings for the revoked order, award such costs.
- (4) A lease executed or agreement made under this section, in a case where the interest of the lessor is subject to a mortgage, shall be deemed to be one authorised by section ninety-nine of the ^{M1}Law of Property Act 1925 (which confers certain powers of leasing on mortgagors in possession), and subsection (13) of that section (which allows those powers to be restricted or excluded by agreement) shall not have effect in relation to such a lease or agreement.

Marginal Citations

M1 1925 c. 20.

[^{F22} 37 Compensation where order for new tenancy precluded on certain grounds.

[^{F23}(1) Subject to the provisions of this Act, in a case specified in subsection (1A), (1B) or (1C) below (a “compensation case”) the tenant shall be entitled on quitting the holding to recover from the landlord by way of compensation an amount determined in accordance with this section.

(1A) The first compensation case is where on the making of an application by the tenant under section 24(1) of this Act the court is precluded (whether by subsection (1) or subsection (2) of section 31 of this Act) from making an order for the grant of a new tenancy by reason of any of the grounds specified in paragraphs (e), (f) and (g) of section 30(1) of this Act (the “compensation grounds”) and not of any grounds specified in any other paragraph of section 30(1).

(1B) The second compensation case is where on the making of an application under section 29(2) of this Act the court is precluded (whether by section 29(4)(a) or section 31(2) of this Act) from making an order for the grant of a new tenancy by reason of any of the compensation grounds and not of any other grounds specified in section 30(1) of this Act.

(1C) The third compensation case is where—

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- (a) the landlord's notice under section 25 of this Act or, as the case may be, under section 26(6) of this Act, states his opposition to the grant of a new tenancy on any of the compensation grounds and not on any other grounds specified in section 30(1) of this Act; and
 - (b) either—
 - (i) no application is made by the tenant under section 24(1) of this Act or by the landlord under section 29(2) of this Act; or
 - (ii) such an application is made but is subsequently withdrawn.]
- (2) [F24Subject to][F25[F26the following provisions of this section, compensation under this section"; and] shall be as follows, that is to say,—]
- (a) where the conditions specified in the next following subsection are satisfied [F27in relation to the whole of the holding]it shall be [F28the product of the appropriate multiplier and] twice the rateable value of the holding,
 - (b) in any other case it shall be [F28the product of the appropriate multiplier and] the rateable value of the holding.
- (3) The said conditions are—
- (a) that, during the whole of the fourteen years immediately preceding the termination of the current tenancy, premises being or comprised in the holding have been occupied for the purposes of a business carried on by the occupier or for those and other purposes;
 - (b) that, if during those fourteen years there was a change in the occupier of the premises, the person who was the occupier immediately after the change was the successor to the business carried on by the person who was the occupier immediately before the change.
- [If the conditions specified in subsection (3) above are satisfied in relation to part of
- F29(3A) the holding but not in relation to the other part, the amount of compensation shall be the aggregate of sums calculated separately as compensation in respect of each part, and accordingly, for the purpose of calculating compensation in respect of a part any reference in this section to the holding shall be construed as a reference to that part.
- (3B) Where section 44(1A) of this Act applies, the compensation shall be determined separately for each part and compensation determined for any part shall be recoverable only from the person who is the owner of an interest in that part which fulfils the conditions specified in section 44(1) of this Act.]
- (4) Where the court is precluded from making an order for the grant of a new tenancy under this Part of this Act in [F30a compensation case], the court shall on the application of the tenant certify that fact.
- (5) For the purposes of subsection (2) of this section the rateable value of the holding shall be determined as follows:—
- (a) where in the valuation list in force at the date on which the landlord's notice under section 25 or, as the case may be, subsection (6) of section 26 of this Act is given a value is then shown as the annual value (as hereinafter defined) of the holding, the rateable value of the holding shall be taken to be that value;
 - (b) where no such value is so shown with respect to the holding but such a value or such values is or are so shown with respect to premises comprised in or comprising the holding or part of it, the rateable value of the holding shall be taken to be such value as is found by a proper apportionment or aggregation of the value or values so shown;

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- (c) where the rateable value of the holding cannot be ascertained in accordance with the foregoing paragraphs of this subsection, it shall be taken to be the value which, apart from any exemption from assessment to rates, would on a proper assessment be the value to be entered in the said valuation list as the annual value of the holding;

and any dispute arising, whether in proceedings before the court or otherwise, as to the determination for those purposes of the rateable value of the holding shall be referred to the Commissioners of Inland Revenue for decision by a valuation officer.

An appeal shall lie to the [^{F31}Upper Tribunal] from any decision of a valuation officer under this subsection, but subject thereto any such decision shall be final.

[If part of the holding is domestic property, as defined in section 66 of the Local
^{F32}(5A) Government Finance Act 1988,—

- (a) the domestic property shall be disregarded in determining the rateable value of the holding under subsection (5) of this section; and
- (b) if, on the date specified in subsection (5)(a) of this section, the tenant occupied the whole or any part of the domestic property, the amount of compensation to which he is entitled under subsection (1) of this section shall be increased by the addition of a sum equal to his reasonable expenses in removing from the domestic property.

(5B) Any question as to the amount of the sum referred to in paragraph (b) of subsection (5A) of this section shall be determined by agreement between the landlord and the tenant or, in default of agreement, by the court.

(5C) If the whole of the holding is domestic property, as defined in section 66 of the Local Government Finance Act 1988, for the purposes of subsection (2) of this section the rateable value of the holding shall be taken to be an amount equal to the rent at which it is estimated the holding might reasonably be expected to let from year to year if the tenant undertook to pay all usual tenant's rates and taxes and to bear the cost of the repairs and insurance and the other expenses (if any) necessary to maintain the holding in a state to command that rent.

(5D) The following provisions shall have effect as regards a determination of an amount mentioned in subsection (5C) of this section—

- (a) the date by reference to which such a determination is to be made is the date on which the landlord's notice under section 25 or, as the case may be, subsection (6) of section 26 of this Act is given;
- (b) any dispute arising, whether in proceedings before the court or otherwise, as to such a determination shall be referred to the Commissioners of Inland Revenue for decision by a valuation officer;
- (c) an appeal shall lie to the [^{F33}Upper Tribunal] from such a decision but, subject to that, such a decision shall be final.]

[Any deduction made under paragraph 2A of Schedule 6 to the Local Government
^{F34}(5E) Finance Act 1988 (deduction from valuation of hereditaments used for breeding horses etc.) shall be disregarded, to the extent that it relates to the holding, in determining the rateable value of the holding under subsection (5) of this section.]

(6) The Commissioners of Inland Revenue may by statutory instrument make rules prescribing the procedure in connection with references under this section.

(7) In this section—

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the reference to the termination of the current tenancy is a reference to the date of termination specified in the landlord's notice under section 25 of this Act or, as the case may be, the date specified in the tenant's request for a new tenancy as the date from which the new tenancy is to begin;

the expression " annual value " means rateable value except that where the rateable value differs from the net annual value the said expression means net annual value;

the expression " valuation officer " means any officer of the Commissioners of Inland Revenue for the time being authorised by a certificate of the Commissioners to act in relation to a valuation list.]

[^{F35}(8) In subsection (2) of this section " the appropriate multiplier " means such multiplier as the Secretary of State may by order made by statutory instrument prescribe [^{F36} and different multipliers may be so prescribed in relation to different cases] .

(9) A statutory instrument containing an order under subsection (8) of this section shall be subject to annulment in pursuance of a resolution of either House of Parliament.]

Textual Amendments

- F22** S. 37 substituted by virtue of Law of Property Act 1969 (c. 59) , s. 15 , **Sch. 1**
- F23** S. 37(1)-(1C) substituted (1.6.2004) for s. 37(1) by The Regulatory Reform (Business Tenancies) (England and Wales) Order 2003 (S.I. 2003/3096), **art. 19(1)**
- F24** Words inserted by Local Government and Housing Act 1989 (c.42, SIF 75:1) , s. 149 , **Sch. 7 para. 2(2)** (subject to savings in paras. 3 , 4)
- F25** Word substituted by S.I. 1990/1285 , art. 2 , **Sch. Pt. I para. 4 (a)**
- F26** Words in s. 37(2) substituted (1.6.2004) by Regulatory Reform (Business Tenancies) (England and Wales) Order 2003 (S.I. 2003/3096), arts. 1(3), **19(2)(a)**
- F27** Words in s. 37(2)(a) inserted (1.6.2004) by Regulatory Reform (Business Tenancies) (England and Wales) Order 2003 (S.I. 2003/3096), arts. 1(3), **19(2)(b)**
- F28** Words inserted by Local Government, Planning and Land Act 1980 (c. 65, SIF 103:1, 2) , s. 193 , **Sch. 33 para. 4(1)**
- F29** S. 37(3A) inserted (1.6.2004) by Regulatory Reform (Business T(3B)enancies) (England and Wales) Order 2003 (S.I. 2003/3096), arts. 1(3), **19(3)**
- F30** Words in s. 37(4) substituted (1.6.2004) by Regulatory Reform (Business Tenancies) (England and Wales) Order 2003 (S.I. 2003/3096), arts. 1(3), **19(4)**
- F31** Words in s. 37(5) substituted (1.6.2009) by The Transfer of Tribunal Functions (Lands Tribunal and Miscellaneous Amendments) Order 2009 (S.I. 2009/1307), art. 1, **Sch. 1 para. 20** (with Sch. 5)
- F32** S. 37(5A)–(5D) inserted by Local Government and Housing Act 1989 (c. 42, SIF 75:1) , s. 149 , **Sch. 7 para. 2(3)** (subject to savings in paras. 3 , 4)
- F33** Words in s. 37(5D)(c) substituted (1.6.2009) by The Transfer of Tribunal Functions (Lands Tribunal and Miscellaneous Amendments) Order 2009 (S.I. 2009/1307), art. 1, **Sch. 1 para. 20** (with Sch. 5)
- F34** S. 37(5E) inserted by S.I. 1990/1285 , art. 2 , **Sch. Pt. I para. 4(b)**
- F35** S. 37(8)(9) added by Local Government, Planning and Land Act 1980 (c. 65) , **Sch. 33 para. 4(2)**
- F36** Words added by Local Government and Housing Act 1989 (c. 42, SIF 75:1) , s. 149 , **Sch. 7 para. 2(4)** (subject to savings in paras. 3 , 4)

Modifications etc. (not altering text)

- C6** S. 37 modified by Local Government and Housing Act 1989 (c. 42, SIF 75:1) , s. 149 , **Sch. 7 para. 4**
- C7** S. 37 excluded by Leasehold Reform Act 1967 (c. 88) , s. **35(6)** ; restricted by Land Compensation Act 1973 (c. 26) , s. **37(4)**

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[^{F37}37A. Compensation for possession obtained by misrepresentation

(1) Where the court—

- (a) makes an order for the termination of the current tenancy but does not make an order for the grant of a new tenancy, or
- (b) refuses an order for the grant of a new tenancy,

and it subsequently made to appear to the court that the order was obtained, or the court was induced to refuse the grant, by misrepresentation or the concealment of material facts, the court may order the landlord to pay to the tenant such sum as appears sufficient as compensation for damage or loss sustained by the tenant as the result of the order or refusal.

(2) Where—

- (a) the tenant has quit the holding—
 - (i) after making but withdrawing an application under section 24(1) of this Act; or
 - (ii) without making such an application; and
- (b) it is made to appear to the court that he did so by reason of misrepresentation or the concealment of material facts,

the court may order the landlord to pay to the tenant such sum as appears sufficient as compensation for damage or loss sustained by the tenant as the result of quitting the holding.]

Textual Amendments

F37 S. 37A inserted (1.6.2004) by [Regulatory Reform \(Business Tenancies\) \(England and Wales\) Order 2003 \(S.I. 2003/3096\)](#), arts. 1(3), 20

[^{F38}38 Restriction on agreements excluding provisions of Part II.

(1) Any agreement relating to a tenancy to which this Part of this Act applies (whether contained in the instrument creating the tenancy or not) shall be void (except as provided by [^{F39}section 38A of this Act]) in so far as it purports to preclude the tenant from making an application or request under this Part of this Act or provides for the termination or the surrender of the tenancy in the event of his making such an application or request or for the imposition of any penalty or disability on the tenant in that event.

(2) Where—

- (a) during the whole of the five years immediately preceding the date on which the tenant under a tenancy to which this Part of this Act applies is to quit the holding, premises being or comprised in the holding have been occupied for the purposes of a business carried on by the occupier or for those and other purposes, and
- (b) if during those five years there was a change in the occupier of the premises, the person who was the occupier immediately after the change was the successor to the business carried on by the person who was the occupier immediately before the change,

any agreement (whether contained in the instrument creating the tenancy or not and whether made before or after the termination of that tenancy) which purports to exclude or reduce compensation under [^{F40}section 37 of this Act] shall to that extent be

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void, so however that this subsection shall not affect any agreement as to the amount of any such compensation which is made after the right to compensation has accrued.

- (3) In a case not falling within the last foregoing subsection the right to compensation conferred by [^{F40}section 37 of this Act] may be excluded or modified by agreement.

^{F41}(4)]

Textual Amendments

- F38** S. 38 substituted by virtue of [Law of Property Act 1969 \(c. 59\), s. 15, Sch. 1](#)
- F39** Words in s. 38(1) substituted (1.6.2004) by [Regulatory Reform \(Business Tenancies\) \(England and Wales\) Order 2003 \(S.I. 2003/3096\), arts. 1\(3\), 21\(1\)](#)
- F40** Words in s. 38(2)(3) substituted (1.6.2004) by [Regulatory Reform \(Business Tenancies\) \(England and Wales\) Order 2003 \(S.I. 2003/3096\), art. 1\(3\), Sch. 5 para. 4](#)
- F41** S. 38(4) repealed (1.6.2004) by [Regulatory Reform \(Business Tenancies\) \(England and Wales\) Order 2003 \(S.I. 2003/3096\), arts. 1\(3\), 21\(2\), Sch. 6](#)

[^{F42}38A. Agreements to exclude provisions of Part 2

- (1) The persons who will be the landlord and the tenant in relation to a tenancy to be granted for a term of years certain which will be a tenancy to which this Part of this Act applies may agree that the provisions of sections 24 to 28 of this Act shall be excluded in relation to that tenancy.
- (2) The persons who are the landlord and the tenant in relation to a tenancy to which this Part of this Act applies may agree that the tenancy shall be surrendered on such date or in such circumstances as may be specified in the agreement and on such terms (if any) as may be so specified.
- (3) An agreement under subsection (1) above shall be void unless—
- (a) the landlord has served on the tenant a notice in the form, or substantially in the form, set out in Schedule 1 to the [Regulatory Reform \(Business Tenancies\) \(England and Wales\) Order 2003](#) (“the 2003 Order”); and
 - (b) the requirements specified in Schedule 2 to that Order are met.
- (4) An agreement under subsection (2) above shall be void unless—
- (a) the landlord has served on the tenant a notice in the form, or substantially in the form, set out in Schedule 3 to the 2003 Order; and
 - (b) the requirements specified in Schedule 4 to that Order are met.]

Textual Amendments

- F42** S. 38A inserted (1.6.2004) by [Regulatory Reform \(Business Tenancies\) \(England and Wales\) Order 2003 \(S.I. 2003/3096\), arts. 1\(3\), 22\(1\)](#)

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