



# Reserve and Auxiliary Forces (Protection of Civil Interests) Act 1951

1951 CHAPTER 65 14 and 15 Geo 6

## PART III

PROTECTION AGAINST INSECURITY OF TENURE OF BUSINESS AND PROFESSIONAL PREMISES

*Provisions as to Scotland*

### **39 Power of sheriff to grant new tenancy.**

- (1) On any application under subsection (1) of the last foregoing section the sheriff may, subject as hereinafter provided, determine that the tenancy shall be renewed for such period, at such rent, and on such terms and conditions as he shall, in all the circumstances, think reasonable, and thereafter the parties shall be deemed to have entered into a new lease of the premises for that period, at that rent and on those terms and conditions.
- (2) The period for which a tenancy may be renewed under the last foregoing subsection shall not extend beyond the expiry of four months from the end of the period of service in consequence of which the application was made.
- (3) Notwithstanding anything in subsection (1) of this section, the sheriff may, if in all the circumstances he thinks it reasonable to do so, dismiss any application under subsection (1) of the last foregoing section, and shall not determine that a tenancy shall be renewed, if he is satisfied—
  - (a) that the tenant is in breach of any condition of his tenancy which in the opinion of the sheriff is material; or
  - (b) that the tenant is notour bankrupt or is divested of his estate by virtue of a trust deed for behoof of creditors, or, being a company, is unable to pay its debts; or
  - (c) that the landlord has offered to sell the premises to the tenant at such price as may, failing agreement, be fixed by a single arbiter agreed on by the parties or appointed, failing such agreement, by the sheriff; or

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**Changes to legislation:** *There are currently no known outstanding effects for the Reserve and Auxiliary Forces (Protection of Civil Interests) Act 1951, Section 39. (See end of Document for details)*

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- (d) that the landlord has offered to afford to the tenant, on terms and conditions which in the opinion of the sheriff are reasonable, alternative accommodation which, in the opinion of the sheriff, is suitable for the purposes of the business carried on by the tenant in the premises; or
  - (e) that the tenant has given notice of termination of tenancy and in consequence of that notice the landlord has contracted to sell or let the premises or has taken any other steps as a result of which he would in the opinion of the sheriff be seriously prejudiced if he could not obtain possession of the premises; or
  - (f) that, having regard to all the circumstances of the case, greater hardship would be caused by determining that the tenancy shall be renewed than by refusing so to do.
- (4) Where a tenancy has been renewed under subsection (1) of this section, the tenant shall have the like right to apply for further renewals as if the tenancy had been renewed by agreement between the landlord and the tenant, and accordingly the foregoing provisions of this section and the immediately preceding section shall, with any necessary modifications, apply to a tenancy which has been renewed under the said subsection (1) or under this subsection.
- (5) If on any application under this section the sheriff is satisfied that it will not be possible to dispose finally of the application before the notice of termination of tenancy takes effect, he may make an interim order authorising the tenant to continue in occupation of the premises at such rent, for such period (which shall not exceed three months) and on such terms and conditions as the sheriff may think fit.
- (6) Applications under subsection (1) of the last foregoing section shall be conducted and disposed of in the summary manner in which proceedings are conducted and disposed of under the Small Debt (Scotland) Acts 1837 to 1889, and the decision of the sheriff in any such application shall be final and not subject to review.

**Changes to legislation:**

There are currently no known outstanding effects for the Reserve and Auxiliary Forces (Protection of Civil Interests) Act 1951, Section 39.