
STATUTORY INSTRUMENTS

2003 No. 3096

The Regulatory Reform (Business Tenancies) (England and Wales) Order 2003

COMPENSATION

Compensation for refusal of new tenancy

19.—(1) For section 37(1)(1) (compensation where new tenancy precluded on certain grounds) substitute—

“(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—

(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(ii) such an application is made but is subsequently withdrawn.”.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) In section 37(2)(2)—

(a) for the words “subsections (5A) to (5E) of this section the said amount” substitute “the following provisions of this section, compensation under this section”; and

(b) in paragraph (a), after the word “satisfied” insert “in relation to the whole of the holding”.

(1) Section 37(1) was amended by section 11 of the Law of Property Act 1969 (c. 59).

(2) Section 37(2) has been amended by section 149(6) of the Local Government and Housing Act 1989 (c. 42), article 2 of the Local Government Finance (Miscellaneous Amendments and Repeal) Order 1990 (S.I. 1990 no. 1285), and section 193 of the Local Government, Planning and Land Act 1980 (c. 65).

(3) After section 37(3) insert—

“(3A) If the conditions specified in subsection (3) above are satisfied in relation to part of 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) In section 37(4), for the words “the circumstances mentioned in subsection (1) of this section” substitute “a compensation case”.

Compensation for misrepresentation

20. After section 37 insert—

“Compensation for possession obtained by misrepresentation

37A.—(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.”.