



Housing Act 1988

1988 CHAPTER 50

PART I

RENTED ACCOMMODATION

CHAPTER IV

PROTECTION FROM EVICTION

28 The measure of damages

- (1) The basis for the assessment of damages referred to in section 27(3) above is the difference in value, determined as at the time immediately before the residential occupier ceased to occupy the premises in question as his residence, between—
 - (a) the value of the interest of the landlord in default determined on the assumption that the residential occupier continues to have the same right to occupy the premises as before that time; and
 - (b) the value of that interest determined on the assumption that the residential occupier has ceased to have that right.
- (2) In relation to any premises, any reference in this section to the interest of the landlord in default is a reference to his interest in the building in which the premises in question are comprised (whether or not that building contains any other premises) together with its curtilage.
- (3) For the purposes of the valuations referred to in subsection (1) above, it shall be assumed—
 - (a) that the landlord in default is selling his interest on the open market to a willing buyer;
 - (b) that neither the residential occupier nor any member of his family wishes to buy; and

Status: This is the original version (as it was originally enacted).

- (c) that it is unlawful to carry out any substantial development of any of the land in which the landlord's interest subsists or to demolish the whole or part of any building on that land.
- (4) In this section “the landlord in default” has the same meaning as in section 27 above and subsection (9) of that section applies in relation to this section as it applies in relation to that.
- (5) Section 113 of the Housing Act 1985 (meaning of “members of a person's family”) applies for the purposes of subsection (3)(b) above.
- (6) The reference in subsection (3)(c) above to substantial development of any of the land in which the landlord's interest subsists is a reference to any development other than—
 - (a) development for which planning permission is granted by a general development order for the time being in force and which is carried out so as to comply with any condition or limitation subject to which planning permission is so granted; or
 - (b) a change of use resulting in the building referred to in subsection (2) above or any part of it being used as, or as part of, one or more dwelling-houses;and in this subsection “general development order” has the same meaning as in section 43(3) of the Town and Country Planning Act 1971 and other expressions have the same meaning as in that Act.