
Status: Point in time view as at 31/01/2017.

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SCHEDULES

SCHEDULE 3

VALIDITY OF TENANTS’ NOTICES, EFFECT ON LANDLORD AND TENANT ACT 1954 ETC. AND PROCEDURE GENERALLY

PART I

Restrictions on claims by tenant, and effect of claims on other notices, forfeitures, etc.

- 1 (1) A claim to acquire the freehold or an extended lease of any property shall be of no effect if made after the tenant has given notice terminating the tenancy of that property (not being a notice that has been superseded by the grant, express or implied, of a new tenancy), or if made during the subsistence of an agreement for a future tenancy to which section 28 of the ^{M1}Landlord and Tenant Act 1954 [^{F1}or paragraph 17 of Schedule 10 to the Local Government and Housing Act 1989] applies.
- (2) A tenant’s notice terminating the tenancy of any property, shall be of no effect if given during the currency of a claim made in respect of the tenancy to acquire the freehold or an extended lease of that property.
- (3) In sub-paragraphs (1) and (2) above references to a notice terminating a tenancy include a tenant’s request for a new tenancy under section 26 of the Landlord and Tenant Act 1954, and a tenant’s notice under section 27(1) of that Act that he does not desire the tenancy to be continued.

Textual Amendments

- F1** Words inserted by [Local Government and Housing Act 1989 \(c. 42, SIF 75:1\), s. 194\(1\), Sch. 11 para. 13\(1\)](#)

Marginal Citations

- M1** 1954 c. 56.

- 2 [^{F2}(1) Sub-paragraphs (1A) to (1E) below apply where a landlord’s notice terminating the tenancy of any property has been given under section 4 or 25 of the Landlord and Tenant Act 1954 or served under paragraph 4(1) of Schedule 10 to the Local Government and Housing Act 1989 (whether or not that notice has effect to terminate the tenancy).
- (1A) A claim to acquire the freehold or an extended lease of the property shall be of no effect if made after the relevant time, but this sub-paragraph is subject to sub-paragraphs (1D) and (1E) below.
- (1B) In this paragraph (but subject to sub-paragraph (1C) below) “the relevant time” is the end of the period of two months beginning with the date on which the landlord’s notice terminating the tenancy has been given or served.

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- (1C) Where—
 - (a) a landlord’s notice terminating the tenancy has been given under section 25 of the Landlord and Tenant Act 1954, and
 - (b) the tenant applies to the court under section 24(1) of that Act for an order for the grant of a new tenancy before the end of the period of two months mentioned in sub-paragraph (1B) above,
 “the relevant time” is the time when the application is made.

- (1D) Sub-paragraph (1A) above shall not apply where the landlord gives his written consent to the claim being made after the relevant time.

- (1E) Where a tenant, having given notice of a desire to have the freehold, gives after the relevant time a further notice under section 9(3) of this Act of his inability or unwillingness to acquire the house and premises at the price he must pay, he may with the notice under section 9(3) give a notice of his desire to have an extended lease (if he then has a right to such a lease).]

- (2) A landlord’s notice terminating a tenancy of any property under section 4 or 25 of the ^{M2}Landlord and Tenant Act 1954 [^{F3}or under paragraph 4(1) of Schedule 10 to the Local Government and Housing Act 1989] shall be of no effect if given [^{F3}or served] during the currency of a claim made in respect of the tenancy to acquire the freehold or an extended lease of that property, and shall cease to have effect on the making of such a claim.

- (3) Where any such landlord’s notice ceases (by virtue of sub-paragraph (2) above ^{F4} . . .) to have effect on the making of a claim, but the claim is not effective, then if within one month after the period of currency of that claim (or any subsequent claim made by virtue of the proviso to sub-paragraph (1) above) a landlord’s notice terminating the tenancy is given under section 4 or 25 of the Landlord and Tenant Act 1954 [^{F5}or served under paragraph 4(1) of Schedule 10 to the Local Government and Housing Act 1989], the earliest date which may be specified therein as the date of termination shall be [^{F6}the date of termination specified in the previous notice or the expiration of three months from the giving of the new notice, whichever is the later.
 - (i) in the case of a notice given under the said Act of 1954]the date of termination specified in the previous notice or the expiration of three months from the giving of the new notice, whichever is the later
 - [^{F7}(ii) in the case of a notice served under the said Schedule 10, the date of termination specified in the previous notice or the expiration of the period of four months beginning on the date of service of the new notice, whichever is the later].

- (4) Where by virtue of sub-paragraph (3) above a landlord’s notice specifies as the date of termination of a tenancy a date earlier than six months after the giving of the notice, then—
 - (a) if it is a notice proposing a statutory tenancy, section 7(2) of the Landlord and Tenant Act 1954 shall apply in relation to the notice with the substitution, for references to the period of two months ending with the date of termination specified in the notice and the beginning of that period, of references to the period of three months beginning with the giving of the notice and the end of that period; ^{F8} ...
 - ^{F8}(b)

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Textual Amendments

- F2** Sch. 3 para. 2(1)–(1E) substituted for Sch. 3 para. 2(1) (1.6.2004) by The Regulatory Reform (Business Tenancies) (England and Wales) Order 2003 (S.I. 2003/3096), art. 1(3), **Sch. 5 para. 11**
- F3** Words inserted by Local Government and Housing Act 1989 (c. 42, SIF 75:1), s. 194(1), **Sch. 11 para. 13(2)(b)**
- F4** Words in Sch. 3, para. 2(3) repealed (5.11.1993) by 1993 c. 50, s. 1(1), **Sch. 1 Pt. XIII** Group 1
- F5** Words inserted by Local Government and Housing Act 1989 (c. 42, SIF 75:1), s. 194(1), **Sch. 11 para. 13(2)(c)(i)**
- F6** Words inserted by Local Government and Housing Act 1989 (c. 42, SIF 75:1), s. 194(1), **Sch. 11 para. 13(2)(c)(ii)**
- F7** Sch. 3 para. 2(3)(ii) added by Local Government and Housing Act 1989 (c. 42, SIF 75:1), s. 194(1), **Sch. 11 para. 13(2)(c)(iii)**
- F8** Sch. 3 para. 2(4)(b) and word repealed (1.6.2004) by The Regulatory Reform (Business Tenancies) (England and Wales) Order 2003 (S.I. 2003/3096), art. 1(3), **Sch. 6**

Marginal Citations

- M2** 1954 c. 56.

[^{F9}2A (1) If—

- (a) the landlord commences proceedings under Part 2 of the Landlord and Tenant Act 1954; and
- (b) the tenant subsequently makes a claim to acquire the freehold or an extended lease of the property; and
- (c) paragraph 2 above does not render the claim of no effect,

no further steps shall be taken in the proceedings under Part 2 otherwise than for their dismissal and for the making of any consequential order.

- (2) Section 64 of the Landlord and Tenant Act 1954 shall have no effect in a case to which sub-paragraph (1) above applies.]

Textual Amendments

- F9** Sch. 3 para. 2A inserted (1.6.2004) by The Regulatory Reform (Business Tenancies) (England and Wales) Order 2003 (S.I. 2003/3096), art. 1(3), **Sch. 5 para. 12**

3 (1) Where a tenant makes a claim to acquire the freehold or an extended lease of any property, then during the currency of the claim and for three months thereafter the tenancy in that property shall not terminate either by effluxion of time or in pursuance of a notice to quit given by the landlord or by the termination of a superior tenancy; but if the claim is not effective, and but for this sub-paragraph the tenancy would have so terminated before the end of those three months, the tenancy shall so terminate at the end of the three months.

(2) Sub-paragraph (1) above shall not be taken to prevent an earlier termination of the tenancy in any manner not there mentioned, nor affect the power under section 146(4) of the ^{M3}Law of Property Act 1925 to grant a tenant relief against the termination of a superior tenancy, or any right of the tenant to relief under section 16(2) of the Landlord and Tenant Act 1954 or under paragraph 9 of Schedule 5 to that Act.

[^{F10}(3) The reference in sub-paragraph (2) above to section 16(2) of, and paragraph 9 of Schedule 5 to, the Landlord and Tenant Act ^{M4}1954 includes a reference to those

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provisions as they apply in relation to Schedule 10 to the Local Government and Housing Act ^{M5}1989.]

Textual Amendments

F10 Sch. 3 para. 3(3) inserted by [Local Government and Housing Act 1989 \(c. 42, SIF 75:1\)](#), s. 194(1), [Sch. 11 para. 13\(3\)](#)

Marginal Citations

M3 1925 c. 20.

M4 1954 c.56 (75:1).

M5 1989 c.42 (75:1).

- 4 (1) Where a tenant makes a claim to acquire the freehold or an extended lease of any property, then during the currency of the claim no proceedings to enforce any right of re-entry or forfeiture terminating the tenancy shall be brought in any court without the leave of that court, and leave shall not be granted unless the court is satisfied that the claim was not made in good faith; but where leave is granted, the claim shall cease to have effect.
- (2) Where a claim is made to acquire the freehold or an extended lease of property comprised in a tenancy, the tenancy shall be deemed for purposes of the claim to be a subsisting tenancy notwithstanding that the claim is made when proceedings are pending to enforce a right of re-entry or forfeiture terminating the tenancy and notwithstanding any order made afterwards in those proceedings, and if the claim is effective, the court in which the proceedings were brought may set aside or vary any such order to such extent and on such terms as appear to that court to be appropriate:
- Provided that if it appears to that court that the claim is not made in good faith, or there has been unreasonable delay in making it, and that apart from the claim effect should be given to the right of re-entry or forfeiture, the court shall order that the tenancy shall not be treated as subsisting nor the claim as valid by virtue of this sub-paragraph.
- (3) Where a court other than the county court—
- (a) grants leave under sub-paragraph (1) above; or
 - (b) makes an order under the proviso to sub-paragraph (2) above on the ground that a claim was not made in good faith;
- the court may make any such order as the county court is authorised to make by section 20(5) or (6) of this Act.
- (4) A tenant who, in proceedings to enforce a right of re-entry or forfeiture or a right to damages in respect of a failure to comply with any terms of the tenancy, applies for relief under section 16 of the ^{M6}Landlord and Tenant Act 1954 is not thereby precluded from making a claim to acquire the freehold or an extended lease; but if he gives notice under section 16(2) (under which the tenant is relieved from any order for recovery of possession or for payment of damages, but the tenancy is cut short), any claim made by him to acquire the freehold or an extended lease of property comprised in the tenancy, with or without other property, shall be of no effect, or, if already made, shall cease to have effect.
- (5) Sub-paragraph (4) above shall apply in relation to proceedings relating to a superior tenancy with the substitution for the references to section 16 and to section 16(2)

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of the Landlord and Tenant Act 1954 of references to paragraph 9 and to paragraph 9(2) of Schedule 5 to that Act.

[^{F11}(6) The references in this paragraph—

- (a) to section 16 of the Landlord and Tenant Act ^{M7}1954 and subsection (2) of that section, and
- (b) paragraph 9 of Schedule 5 to that Act and sub-paragraph (2) of that paragraph,

include references to those provisions as they apply in relation to Schedule 10 to the Local Government and Housing Act ^{M8}1989.]

Textual Amendments

F11 Sch. 3 para. 3(6) inserted by [Local Government and Housing Act 1989 \(c. 42, SIF 75:1\)](#), s. 194(1), [Sch. 11 para. 13\(4\)](#)

Marginal Citations

M6 1954 c. 56.

M7 1954 c.56 (75:1).

M8 1989 c.42 (75:1).

5 (1) For purposes of this Part of this Schedule—

- (a) references to a claim to acquire the freehold or an extended lease shall be taken as references to a notice of a person’s desire to acquire it under Part I of this Act and, except in so far as the contrary intention appears, as including a claim made by a tenant not entitled to acquire it and a claim made by a person who is not a tenant; and
- (b) references to a claim being effective shall be taken as references to the freehold or an extended lease being acquired in pursuance of the claim; and
- (c) references to the currency of a claim shall be taken as references to the period from the giving of a notice which has effect or would, if valid, have effect to the time when the notice is effective or ceases to have effect, or (not being a valid notice) is set aside by the court or withdrawn or would, if valid, cease to have effect, and those references shall include any period when the notice is suspended.

(2) For purposes of subparagraph (1)(c) above the date when a notice ceases to have effect or is set aside or would, if valid, cease to have effect in consequence of an order of a court shall be taken to be the date when the order becomes final.

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