



# Housing Act 1980

## 1980 CHAPTER 51

### PART II

#### PRIVATE SECTOR TENANTS

##### *Protected shorthold tenancies*

#### **51 Preliminary**

Sections 53 to 55 below modify the operation of the 1977 Act in relation to protected shorthold tenancies as defined in section 52 below.

#### **52 Protected shorthold tenancies**

- (1) A protected shorthold tenancy is a protected tenancy granted after the commencement of this section which is granted for a term certain of not less than one year nor more than five years and satisfies the following conditions, that is to say.—
- (a) it cannot be brought to an end by the landlord before the expiry of the term, except in pursuance of a provision for re-entry or forfeiture for non-payment of rent or breach of any other obligation of the tenancy; and
  - (b) before the grant the landlord has given the tenant a valid notice stating that the tenancy is to be a protected shorthold tenancy; and
  - (c) either a rent for the dwelling-house is registered at the time the tenancy is granted or—
    - (i) a certificate of fair rent has, before the grant, been issued under section 69 of the 1977 Act in respect of the dwelling-house and the rent payable under the tenancy, for any period before a rent is registered for the dwelling-house, does not exceed the rent specified in the certificate; and
    - (ii) an application for the registration of a rent for the dwelling-house is made not later than 28 days after the beginning of the term and is not withdrawn.

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- (2) A tenancy of a dwelling-house is not a protected shorthold tenancy if it is granted to a person who, immediately before it was granted, was a protected or statutory tenant of that dwelling-house.
- (3) A notice is not valid for the purposes of subsection (1)(b) above unless it complies with the requirements of regulations made by the Secretary of State.
- (4) The Secretary of State may by order direct that subsection (1) above shall have effect, either generally or in relation to any registration area specified in the order, as if paragraph (c) were omitted.
- (5) If a protected tenancy is granted after the commencement of this section—
  - (a) for such a term certain as is mentioned in subsection (1) above, to be followed, at the option of the tenant, by a further term; or
  - (b) for such a term certain and thereafter from year to year or some other period ; and satisfies the conditions stated in that subsection, the tenancy is a protected shorthold tenancy until the end of the term certain.

### **53 Right of tenant to terminate protected shorthold tenancy**

- (1) A protected shorthold tenancy may be brought to an end (by virtue of this section and notwithstanding anything in the terms of the tenancy) before the expiry of the term certain by notice in writing of the appropriate length given by the tenant to the landlord; and the appropriate length of the notice is—
  - (a) one month if the term certain is two years or less ; and
  - (b) three months if it is more than two years.
- (2) Any agreement relating to a protected shorthold tenancy (whether or not contained in the instrument creating the tenancy) shall be void in so far as it purports to impose any penalty or disability on the tenant in the event of his giving a notice under this section.

### **54 Subletting or assignment**

- (1) Where the whole or part of a dwelling-house let under a protected shorthold tenancy has been sublet at any time during the continuous period specified in subsection (3) below, and, during that period, the landlord becomes entitled, as against the tenant, to possession of the dwelling-house, he shall also be entitled to possession against the sub-tenant and section 137 of the 1977 Act shall not apply.
- (2) A protected shorthold tenancy of a dwelling-house and any protected tenancy of the same dwelling-house granted during the continuous period specified in subsection (3) below shall not be capable of being assigned, except in pursuance of an order under section 24 of the Matrimonial Causes Act 1973.
- (3) The continuous period mentioned in subsections (1) and (2) above is the period beginning with the grant of the protected shorthold tenancy and continuing until either—
  - (a) no person is in possession of the dwelling-house as a protected or statutory tenant; or
  - (b) a protected tenancy of the dwelling-house is granted to a person who is not, immediately before the grant, in possession of the dwelling-house as a protected or statutory tenant.

## 55 Orders for possession

- (1) The following Case shall be added to the Cases in Part II of Schedule 15 to the 1977 Act (mandatory orders for possession):

*“Case 19*

Where the dwelling-house was let under a protected short-hold tenancy (or is treated under section 55 of the Housing Act 1980 as having been so let) and—

- (a) there either has been no grant of a further tenancy of the dwelling-house since the end of the protected shorthold tenancy or, if there was such a grant, it was to a person who immediately before the grant was in possession of the dwelling-house as a protected or statutory tenant; and
- (b) the proceedings for possession were commenced after appropriate notice by the landlord to the tenant and not later than 3 months after the expiry of the notice.

A notice is appropriate for this Case if—

- (i) it is in writing and states that proceedings for possession under this Case may be brought after its expiry; and
- (ii) it expires not earlier than 3 months after it is served nor, if, when it is served, the tenancy is a periodic tenancy, before that periodic tenancy could be brought to an end by a notice to quit served by the landlord on the same day ;
- (iii) it is served—
  - (a) in the period of 3 months immediately preceding the date on which the protected shorthold tenancy comes to an end; or
  - (b) if that date has passed, in the period of 3 months immediately preceding any anniversary of that date ; and
- (iv) in a case where a previous notice has been served by the landlord on the tenant in respect of the dwelling-house, and that notice was an appropriate notice, it is served not earlier than 3 months after the expiry of the previous notice.”

- (2) If, in proceedings for possession under Case 19 set out above, the court is of opinion that, notwithstanding that the condition of paragraph (b) or (c) of section 52(1) above is not satisfied, it is just and equitable to make an order for possession, it may treat the tenancy under which the dwelling-house was let as a protected shorthold tenancy.

### *Assured tenancies*

## 56 Assured tenancies

- (1) A tenancy under which a dwelling-house is let as a separate dwelling is an assured tenancy and not a housing association tenancy (within the meaning of section 86 of the 1977 Act) or a protected tenancy if—
- (a) it would, when created, have been a protected tenancy or, as the case may be, housing association tenancy but for this section ; and
  - (b) the conditions described in subsection (3) below are satisfied.
- (2) In this Part of this Act " assured tenant" means the tenant under an assured tenancy.
- (3) The conditions are that—

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- (a) the interest of the landlord has, since the creation of the tenancy, belonged to an approved body ;
  - (b) the dwelling-house is, or forms part of, a building which was erected (and on which construction work first began) after the passing of this Act; and
  - (c) before the tenant first occupied the dwelling-house under the tenancy, no part of it had been occupied by any person as his residence except under an assured tenancy.
- (4) In this Part of this Act " approved body " means a body, or one of a description of bodies, for the time being specified for the purposes of this Part of this Act in an order made by the Secretary of State.
- (5) After section 16 of the 1977 Act there is inserted the following section—

**“16A Assured tenancies.**

A tenancy shall not be a protected tenancy at any time when it is an assured tenancy within the meaning of section 56 of the Housing Act 1980.”.

- (6) The preceding provisions of this section do not apply to a tenancy if, before the grant of the tenancy, the landlord has given the tenant a valid notice stating that the tenancy is to be a protected tenancy or, as the case may be, a housing association tenancy and not an assured tenancy.
- (7) A notice is not valid for the purposes of subsection (6) above unless it complies with the requirements of regulations made by the Secretary of State.

**57 Effect of interest of landlord ceasing to belong to approved body**

- (1) if the landlord under an assured tenancy ceases to be an approved body by reason only of a variation in the bodies or descriptions of bodies for the time specified in an order under section 56(4) of this Act, then in relation to—
- (a) that tenancy ; and
  - (b) any further tenancy granted by the landlord to the person who immediately before the grant was in possession of the dwelling-house as an assured tenant;
- the landlord shall be treated, for the purposes of the condition in section 56(3)(a) above, as if it had remained an approved body.
- (2) If, for any period—
- (a) the interest of the landlord under an assured tenancy has ceased to belong to an approved body, for any reason other than that mentioned in subsection (1) above; and
  - (b) but for this subsection the tenancy would thereby have become a housing association tenancy (within the meaning of section 86 of the 1977 Act) or a protected tenancy;
- then so much of that period as does not exceed 3 months shall be disregarded in determining whether the condition in section 56(3)(a) above is satisfied in relation to that tenancy.

## **58 Application of Landlord and Tenant Act 1954**

- (1) Part II of the Landlord and Tenant Act 1954 (renewal and continuation of tenancies) applies to assured tenancies as it applies to certain business and other tenancies by virtue of section 23 of that Act, but subject to the exceptions and modifications mentioned in Schedule 5 to this Act.
- (2) Part IV of that Act (miscellaneous and supplementary provisions) applies to assured tenancies subject to the exceptions and modifications mentioned in Schedule 5.

### *Rents*

## **59 Rent officers and applications for registration of rent**

- (1) In section 63(2) of the 1977 Act (provision to be made by rent officer schemes) there is inserted, at the end of paragraph (d) “; and
  - (e) may require the proper officer—
    - (i) to designate one of the rent officers as chief rent officer; and
    - (ii) to delegate to him such of the duties imposed on the proper officer by virtue of paragraph (d) above as may be specified in the scheme.”
- (2) In section 67 of the 1977 Act (application for registration of rent) for subsection (2) there is substituted the following subsection—

“(2) Any such application must be in the prescribed form and must—

  - (a) specify the rent which it is sought to register;
  - (b) where the rent includes any sum payable by the tenant to the landlord for services and the application is made by the landlord, specify that sum and be accompanied by details of the expenditure incurred by the landlord in providing those services ; and
  - (c) contain such other particulars as may be prescribed.”
- (3) Schedule 6 to this Act has effect, in relation to applications made after the commencement of this subsection, for the purpose of amending the procedure provided for by the 1977 Act in relation to applications for the registration of rent.

## **60 Applications for new registered rents and phasing of increases**

- (1) In section 67 of the 1977 Act (which, among other things, prevents an application for a new registered rent from being made within 3 years of the date of an existing registration and which is applied by section 13(2) of the Rent (Agriculture) Act 1976 to rents registered under that Act) in subsections (3) and (4) for the words " 3 years" there are substituted, in each case, the words " 2 years ".
- (2) Subsection (1) above does not apply in any case where, on the determination or confirmation of a rent by the rent officer, the rent determined by him is registered, or his confirmation is noted in the register, before the commencement of this section.
- (3) In Schedule 6 to the 1976 Act and in Schedule 8 to the 1977 Act (phasing of increases in registered rents) there is substituted, in each case for paragraph 3, the following paragraph—

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- “3 (1) Subject to sub-paragraph (2) below, the permitted increase for a period falling within the period of delay is an increase to an amount calculated by applying the formula—

$$\frac{1}{2}(P + S + R)$$

where—

P is the previous rent limit,  
 S is the service element, and  
 R is the registered rent.

- (2) The maximum permitted increase by virtue of this Schedule is an increase to the registered rent”.

- (4) Sections 56 and 114 of, and Schedule 9 to, the 1977 Act (special phasing rules in cases where controlled tenancies have been converted into regulated tenancies and where certain improvements have been made to dwelling-houses) are hereby repealed; and the general rules relating to the phasing of rent increases contained in section 55 of, and Schedule 8 to, that Act shall apply in those cases.
- (5) The Secretary of State may by order make provision—
- (a) reducing or increasing the period for the time being mentioned in section 67(3) and (4) of the 1977 Act; or
  - (b) reducing or increasing the period of delay for the time being imposed by the Schedules mentioned in subsection (3) above; or
  - (c) repealing section 55 of the 1977 Act and section 15 of the 1976 Act (phasing of rent increases).
- (6) An order under subsection (5)(a) above may make a corresponding reduction or increase in any of the periods for the time being mentioned in section 13 of the 1976 Act (application for registration of rent) and sections 73(1)(a) and (1A)(a) (cancellation of registration of rent under Part IV), 80(2) (reconsideration of rent under restricted contract) and 81A (cancellation of registration of rent under Part V) of the 1977 Act.
- (7) An order under subsection (5) above may make such supplemental, incidental and consequential provision as the Secretary of State considers necessary or expedient, including provision amending any enactment (including this Act).

## **61 Effect of registration of rent etc.**

- (1) For section 72 of the 1977 Act (effect of registration of rent) there is substituted the following section—

### **“72 Effect of registration of rent.**

- (1) The registration of a rent for a dwelling-house takes effect—
- (a) if the rent is determined by the rent officer, from the date when it is registered, and
  - (b) if the rent is determined by a rent assessment committee, from the date when the committee make their decision.
- (2) If the rent for the time being registered is confirmed, the confirmation takes effect—

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- (a) if it is made by the rent officer, from the date when it is noted in the register, and
    - (b) if it is made by a rent assessment committee, from the date when the committee make their decision.
  - (3) If (by virtue of section 67(4) of this Act) an application for registration of a rent is made before the expiry of the period mentioned in section 67(3) and the resulting registration of a rent for the dwelling-house, or confirmation of the rent for the time being registered, would, but for this subsection, take effect before the expiry of that period it shall take effect on the expiry of that period.
  - (4) The date from which the registration or confirmation of a rent takes effect shall be entered in the register.
  - (5) As from the date on which the registration of a rent takes effect any previous registration of a rent for the dwelling-house ceases to have effect.
  - (6) Where a valid notice of increase under any provision of Part III of this Act has been served on a tenant and, in consequence of the registration of a rent, part but not the whole of the increase specified in the notice becomes irrecoverable from the tenant, the registration shall not invalidate the notice, but the notice shall, as from the date from which the registration takes effect, have effect as if it specified such part only of the increase as has not become irrecoverable.”
- (2) For subsections (4) to (6) of section 13 of the Rent (Agriculture) Act 1976 (effect of registration of rent) there are substituted the following subsections—
- “(4) The registration of a rent in the said part of the register takes effect—
    - (a) if the rent is determined by the rent officer, from the date when it is registered, and
    - (b) if the rent is determined by a rent assessment committee, from the date when the committee make their decision.
  - (5) If the rent for the time being registered in the said part of the register is confirmed, the confirmation takes effect—
    - (a) if it is made by the rent officer, from the date when it is noted in the register, and
    - (b) if it is made by a rent assessment committee, from the date when the committee make their decision.
  - (6) If (by virtue of section 67(4) of the Rent Act 1977, as applied by subsection (2) above) an application for registration of a rent is made before the expiry of the period mentioned in section 67(3) and the resulting registration of a rent for the dwelling-house, or confirmation of the rent for the time being registered, would, but for this subsection, take effect before the expiry of that period it shall take effect on the expiry of that period.
  - (6A) The date from which the registration or confirmation of a rent takes effect shall be entered in the said part of the register.
  - (6B) As from the date on which the registration of a rent takes effect any previous registration of a rent for the dwelling-house ceases to have effect.”
- (3) In Part VI of the 1977 Act (rent limit for dwellings let by housing associations, housing trusts and the Housing Corporation)

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- (a) in section 87 (registration of rent), in subsection (2)(a) for the words " and 70 " there are substituted the words " 70 and 72 " and subsections (3) to (5) are hereby repealed; and
  - (b) subsections (1) and (2) of section 96 (effect of determination by rent assessment committee) are hereby repealed."
- (4) In section 45 of the 1977 Act (limit of rent during statutory periods) in subsection (3) for the words " on which the rent was registered " there are substituted the words " from which the registration of the rent took effect ".
- (5) In section 67 of the 1977 Act, for subsection (5) (meaning of " relevant date " in relation to applications for registration of rent) there is substituted the following subsection—
- “(5) In this section and sections 68 and 69 of this Act " relevant date ", in relation to a rent which has been registered under this Part of this Act, means the date from which the registration took effect or, in the case of a registered rent which has been confirmed, the date from which the confirmation (or, where there have been two or more successive confirmations, the last of them) took effect.”.
- (6) In Schedule 6 to the Rent (Agriculture) Act 1976 and in Schedule 8 to the 1977 Act (phasing of rent increases)—
- (a) in paragraph 1(1)—
    - (i) in the definition of "period of delay " for the words from " means " to the end there are substituted the words “means—
      - (a) if the registered rent has been confirmed by a rent assessment committee, a period beginning with the date from which the registration of the rent took effect and ending one year after the date on which the committee took their decision ; and
      - (b) in any other case, a period of one year beginning with the date from which the registration took effect.”.
    - (ii) in the definition of " previous rent limit" for the words " at the date of registration " there are substituted the words " immediately before the relevant date "; and
    - (iii) before the definition of " service element" there is inserted the following definition—
 

“" relevant date " means, in relation to a registered rent—

      - (a) if the rent was determined by the rent officer (and whether or not it was confirmed by a rent assessment committee), the date on which the rent was registered by the rent officer; and
      - (b) if the rent was determined by a rent assessment committee, the date on which the rent officer registered the rent determined by him or, as the case may be, noted in the register his confirmation of the rent for the time being registered.”;
  - (b) for paragraph 4 there is substituted the following paragraph—
 

“4 Where the registration of a rent takes effect in a period of delay which began by reference to an earlier registration, then—



- (a) from the date on which the later registration takes effect the limitation under that period of delay shall cease to apply ; and
  - (b) a fresh period of delay shall begin by reference to the later registration.”; and
  - (c) paragraphs 7 (in Schedule 6) and 8 (in Schedule 8) are hereby repealed.
- (7) In Schedule 11 to the 1977 Act (procedure on application for registration of rent), in paragraph 9(2) for the word " accordingly " there are substituted the words " of their decision and of the date on which it was made ".
- (8) Subsections (1) to (5) above do not apply in any case where, on the determination or confirmation of a rent by the rent officer, the rent determined by him is registered, or his confirmation is noted in the register, before the commencement of this section.

## **62 Cancellation of registration of rent**

- (1) Section 73 of the 1977 Act is amended as follows.
- (2) After subsection (1) there is inserted the following subsection : —
  - “(1A) Such an application may also be made where—
    - (a) not less than two years have elapsed since the relevant date (as defined in section 67(5) of this Act); and
    - (b) the dwelling-house is not for the time being subject to a regulated tenancy ; and
    - (c) the application is made by the person who would be the landlord if the dwelling-house were let on such a tenancy.”
- (3) For subsection (3) there is substituted the following subsection—
  - “(3) An application under this section must—
    - (a) be in the form prescribed for the application concerned and contain the prescribed particulars; and
    - (b) be accompanied, in the case of an application under subsection (1) above, by a copy of the rent agreement.”.
- (4) In subsection (4)—
  - (a) after the word " If " there are inserted the words " the application is made under subsection (1) above and "; and
  - (b) at the end there are inserted the words " and he shall also cancel the registration if the application is made under subsection (1A) above ".
- (5) In subsection (5) after the word " Where " there are inserted the words " the application is made under subsection (1) above and ".
- (6) In subsection (6) for the words " The cancellation " there are substituted the words " A cancellation made in pursuance of an application under subsection (1) above ".

## **63 Repeal of sections 48 and 50 of Rent Act 1977**

Section 48 of the 1977 Act (increase, on account of improvements, of recoverable rent for statutory periods before registration) and section 50 of that Act (private street works to count as improvements) are hereby repealed.

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### *Conversion of controlled tenancies*

#### **64 Conversion of controlled tenancies into regulated tenancies**

- (1) At the commencement of this section every controlled tenancy shall cease to be a controlled tenancy and become a regulated tenancy, except in the case mentioned in subsection (2) below.
- (2) If the controlled tenancy is one to which Part II of the Landlord and Tenant Act 1954 would apply, apart from section 24(2) of the 1977 Act, or would so apply if it were a tenancy within the meaning of the Act of 1954, it shall, when it ceases to be a controlled tenancy, be treated as a tenancy continuing by virtue of section 24 of the Act of 1954 after the expiry of a term of years certain.

### *Regulated tenancies*

#### **65 Resident landlords**

- (1) In section 12(1) of the 1977 Act (certain tenancies granted by resident landlords not to be protected tenancies) for paragraphs (a) to (c) there are substituted the following paragraphs—
  - “(a) the dwelling-house forms part only of a building and, except in a case where the dwelling-house also forms part of a flat, the building is not a purpose-built block of flats; and
  - (b) the tenancy was granted by a person who, at the time when he granted it, occupied as his residence another dwelling-house which—
    - (i) in the case mentioned in paragraph (a) above, also forms part of the flat; or
    - (ii) in any other case, also forms part of the building ; and
  - (c) subject to paragraph 1 of Schedule 2 to this Act, at all times since the tenancy was granted the interest of the landlord under the tenancy has belonged to a person who, at the time he owned that interest, occupied as his residence another dwelling-house which—
    - (i) in the case mentioned in paragraph (a) above, also formed part of the flat; or
    - (ii) in any other case, also formed part of the building.”
- (2) Schedule 2 to the 1977 Act (provisions for determining application of section 12) is amended as follows.
- (3) In paragraph 1—
  - (a) in sub-paragraph (a) for the words " 14 days " there are substituted the words " 28 days " and after the word " building " there are inserted the words " or, as the case may be, flat ";
  - (b) in sub-paragraph (b) for the words " such dwelling-house as is referred to in that paragraph " there are substituted the words " dwelling-house in the building or, as the case may be, flat concerned " ; and
  - (c) in sub-paragraph (c) for the words " 12 months " there are substituted the words " 2 years " and paragraph (i) is hereby repealed.
- (4) In paragraph 2(b) after the word " building " there are inserted the words " or, as the case may be, flat " .

- (5) After paragraph 2 there is inserted the following paragraph—
- “2A (1) The tenancy referred to in section 12(1) falls within this paragraph if the interest of the landlord under the tenancy becomes vested in the personal representatives of a deceased person acting in that capacity.
- (2) If the tenancy falls within this paragraph, the condition in section 12(1) (c) shall be deemed to be fulfilled for any period, beginning with the date on which the interest becomes vested in the personal representatives and not exceeding two years, during which the interest of the landlord remains so vested.”
- (6) Subject to subsection (7) below, this section, except subsection (1), applies to tenancies granted before as well as those granted after the commencement of this section.
- (7) In any case where the interest of the landlord under a tenancy vested in the personal representatives (acting in that capacity) of a person who died before the commencement of this section, Schedule 2 to the 1977 Act applies as if paragraph 2A had not been inserted and paragraph 1(c)(i) had not been repealed.

## **66 Amendment of Cases 11 and 12 of Schedule 15 to Rent Act 1977**

- (1) In Case 11 in Schedule 15 to the 1977 Act (dwelling-house required by a person who was owner-occupier at time of letting) for paragraph (c) there is substituted the following paragraph—
- “(c) the court is of the opinion that of the conditions set out in Part V of this Schedule one of those in paragraphs (a) and (c) to (f) is satisfied.”
- (2) In Case 12 in Schedule 15 (dwelling-house required for use by owner on his retirement) for paragraph (c) there is substituted the following paragraph—
- “(c) the court is of the opinion that of the conditions set out in Part V of this Schedule one of those in paragraphs (b) to (e) is satisfied.”
- (3) There are inserted in Schedule 15, as a new Part V, the provisions set out in Schedule 7 to this Act; and in section 98 of the 1977 Act (which, among other things, introduces Schedule 15) there is added, at the end, the following subsection—
- “(5) Part V of Schedule 15 shall have effect for the purpose of setting out conditions which are relevant to Cases 11 and 12 of that Schedule.”
- (4) In Case 12 for the words from the beginning to " employment let" there are substituted the words " Where the landlord (in this Case referred to as " the owner ") intends to occupy the dwelling-house as his residence at such time as he might retire from regular employment and has let"
- (5) Subject to subsection (6) below, Cases 11 and 12, as amended by this section, apply to tenancies granted before, as well as those granted after, the commencement of this section; and nothing in this section invalidates a notice that possession might be recovered under Case 11 or Case 12 which was duly given to a tenant before then.
- (6) Paragraphs (c) and (d) of Part V of Schedule 15 do not apply to Case 11 if the tenancy was granted, and the owner died, before the commencement of this section; and paragraph (d) does not apply to Case 12 in any such case.

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## 67 Lettings by servicemen

The following Case shall be added to the Cases in Part II of Schedule 15 to the 1977 Act (mandatory orders for possession) after the Case inserted in Part II by section 55 of this Act—

### *“Case 20*

Where the dwelling-house was let by a person (in this Case referred to as "the owner") at any time after the commencement of section 67 of the Housing Act 1980 and—

- (a) at the time when the owner acquired the dwelling house he was a member of the regular armed forces of the Crown;
- (b) at the relevant date the owner was a member of the regular armed forces of the Crown ;
- (c) not later than the relevant date the owner gave notice in writing to the tenant that possession might be recovered under this Case ;
- (d) the dwelling-house has not, since the commencement of section 67 of the Act of 1980 been let by the owner on a protected tenancy with respect to which the condition mentioned in paragraph (c) above was not satisfied ; and
- (e) the court is of the opinion that—
  - (i) the dwelling-house is required as a residence for the owner ; or
  - (ii) of the conditions set out in Part V of this Schedule one of those in paragraphs (c) to (f) is satisfied.

If the court is of the opinion that, notwithstanding that the condition in paragraph (c) or (d) above is not complied with, it is just and equitable to make an order for possession of the dwelling-house, the court may dispense with the requirements of either or both of these paragraphs, as the case may require.

For the purposes of this Case " regular armed forces of the Crown " has the same meaning as in section 1 of the House of Commons Disqualification Act 1975.”

### *Rent agreements*

## 68 Rent agreements with tenants having security of tenure

- (1) In section 51(4) of the 1977 Act (requirements to be observed in rent agreements with tenants having security of tenure), in paragraph (b) the following sub-paragraph is inserted after sub-paragraph (i)—
  - “(ia) that if the agreement were not made but instead a rent were registered under Part IV of this Act, then part only of any increase over the rent previously recoverable by the landlord would be payable by the tenant during the first year ; and”.
- (2) For section 52 of the 1977 Act (which makes special provision, in the case of converted tenancies, in relation to rent agreements with tenants having security of tenure) there is substituted the following section—

### **“52 Protection: special provisions following conversion.**

- (1) This section applies to an agreement with a tenant having security of tenure which is entered into after the commencement of section 68(2) of the Housing

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Act 1980 if the tenancy has become or, as the case may be, the previous tenancy became a regulated tenancy by conversion.

- (2) Any such agreement which purports to increase the rent payable under a protected tenancy shall, if entered into at a time when no rent is registered for the dwelling-house under Part IV of this Act, be void.
  - (3) If any such agreement constitutes a grant of a regulated tenancy and is made at a time when no rent is so registered, any excess of the rent payable under the tenancy so granted (for any contractual or statutory period of the tenancy) over the rent limit applicable to the previous tenancy, shall be irrecoverable from the tenant; but this subsection ceases to apply if a rent is subsequently so registered.
  - (4) For the purposes of this section a tenancy is a regulated tenancy by conversion if it has become a regulated tenancy by virtue of—
    - (a) Part VIII of this Act, section 43 of the Housing Act 1969 or Part III or IV of the Housing Finance Act 1972 (conversion of controlled tenancies into regulated tenancies) ; or
    - (b) section 18(3) of this Act or paragraph 5 of Schedule 2 to the Rent Act 1968 (conversion on death of first successor); or
    - (c) section 64 of the Housing Act 1980 (conversion of all remaining controlled tenancies).
  - (5) This section does not apply to any agreement where the tenant is neither the person who, at the time of the conversion, was the tenant nor a person who might succeed the tenant at that time as a statutory tenant.
  - (6) Where a rent is registered for the dwelling-house and the registration is subsequently cancelled, this section shall not apply to the agreement submitted to the rent officer in connection with the cancellation nor to any agreement made so as to take effect after the cancellation.”
- (3) In section 57 of the 1977 Act (recovery from landlord of sums paid in excess of recoverable rent, etc.) for subsection (3) there is substituted the following subsection—
- “(3) No amount which a tenant is entitled to recover under subsection (1) above shall be recoverable at any time after the expiry of—
- (a) one year, in the case of an amount which is irrecoverable by virtue of section 54 of this Act; or
  - (b) two years, in any other case.”.

#### *Restricted contracts*

### **69 Restricted contracts: security of tenure**

- (1) In section 3 of the Protection from Eviction Act 1977 (prohibition of eviction without due process of law), after subsection (2) there is inserted the following subsection—

“(2A) Subsections (1) and (2) above apply in relation to any restricted contract (within the meaning of the Rent Act 1977) which—

  - (a) creates a licence ; and
  - (b) is entered into after the commencement of section 69 of the Housing Act 1980;

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as they apply in relation to a restricted contract which creates a tenancy.”.

(2) After section 106 of the 1977 Act there is inserted the following section: —

**“106A Discretion of court in certain proceedings for possession.**

- (1) This section applies to any dwelling-house which is the subject of a restricted contract entered into after the commencement of section 69 of the Housing Act 1980.
  - (2) On the making of an order for possession of such a dwelling-house, or at any time before the execution of such an order, the court may—
    - (a) stay or suspend execution of the order, or
    - (b) postpone the date of possession,for such period or periods as, subject to subsection (3) below, the court thinks fit.
  - (3) Where a court makes an order for possession of such a dwelling-house, the giving up of possession shall not be postponed (whether by the order or any variation, suspension or stay of execution) to a date later than 3 months after the making of the order.
  - (4) On any such stay, suspension or postponement as is referred to in subsection (2) above, the court shall, unless it considers that to do so would cause exceptional hardship to the lessee or would otherwise be unreasonable, impose conditions with regard to payment by the lessee of arrears of rent (if any) and rent or payments in respect of occupation after termination of the tenancy (mesne profits) and may impose such other conditions as it thinks fit.
  - (5) Subsection (6) below applies in any case where—
    - (a) proceedings are brought for possession of such a dwelling-house;
    - (b) the lessee's spouse or former spouse, having rights of occupation under the Matrimonial Homes Act 1967, is then in occupation of the dwelling-house; and
    - (c) the restricted contract is terminated as a result of those proceedings.
  - (6) In any case to which this subsection applies, the spouse or former spouse shall, so long as he or she remains in occupation, have the same rights in relation to, or in connection with, any such stay, suspension or postponement as is referred to in subsection (2) above, as he or she would have if those rights of occupation were not affected by the termination of the restricted contract.”.
- (3) Sections 103 to 106 of the 1977 Act (security of tenure in respect of restricted contracts) shall not apply to restricted contracts entered into after the commencement of this section; and accordingly after section 102 of that Act there is inserted the following section—

**“102A Restricted application of sections 103 to 106.**

Sections 103 to 106 of this Act apply only to restricted contracts entered into before the commencement of section 69 of the Housing Act 1980.”.

- (4) In section 12 of the 1977 Act, for subsections (2) and (3) (cases where tenancies granted by resident landlords are not exempted by section 12 from being protected tenancies), there is substituted the following subsection—

“(2) This section does not apply to a tenancy of a dwelling-house which forms part of a building if the tenancy is granted to a person who, immediately before it was granted, was a protected or statutory tenant of that dwelling-house or of any other dwelling-house in that building.”

#### **70 Reconsideration of registered rents under Part V of Rent Act 1977**

- (1) in section 80(2) of the 1977 Act (which in certain circumstances prevents an application for a new registered rent for a dwelling-house which is the subject of a restricted contract from being made within 3 years of the date of an existing registration), for the words " 3 years " there are substituted the words " 2 years ".
- (2) This section does not apply in any case where the date from which the period during which no application for registration can be made is to be calculated falls before the commencement of this section.

#### **71 Cancellation of rents registered under Part V of Rent Act 1977**

- (1) After section 81 of the 1977 Act (effect of registration of rent under section 79) there is inserted the following section—

##### **“81A Cancellation of registration of rent.**

- (1) Where the rent payable for any dwelling is entered in the register under section 79 of this Act, the rent tribunal shall cancel the entry, on an application made under this section, if—
- (a) not less than two years have elapsed since the date of entry ;
  - (b) the dwelling is not for the time being subject to a restricted contract; and
  - (c) the application is made by the person who would be the lessor if the dwelling were subject to a restricted contract.
- (2) An application under this section must be in the prescribed form, and contain the prescribed particulars.
- (3) Cancellation of the registration shall be without prejudice to a further registration of a rent at any time after the cancellation.
- (4) The rent tribunal shall notify the applicant of their decision to grant, or to refuse, any application under this section.”
- (2) In Schedule 10 to the 1977 Act (rent assessment committees), in paragraph 5 for the words " paragraph 6 " there are substituted the words " paragraphs 6 and 6A " and after paragraph 6 there is inserted the following paragraph—
- “6A When dealing with an application under section 81A of this Act a rent assessment committee carrying out the functions of a rent tribunal shall consist of the chairman of the committee sitting alone.”

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## **72 Functions of rent tribunals**

- (1) Rent tribunals, as constituted for the purposes of the 1977 Act, are hereby abolished and section 76 of the 1977 Act (constitution etc. of rent tribunals) is hereby repealed.
- (2) As from the commencement of this section the functions which, under the 1977 Act, are conferred on rent tribunals shall be carried out by rent assessment committees.
- (3) A rent assessment committee shall, when constituted to carry out functions so conferred, be known as a rent tribunal.

### *Miscellaneous*

## **73 Dwellings forming part of Crown Estate or belonging to Duchies**

- (1) The following section is substituted for section 13 of the 1977 Act :
  - (1) Except as provided by subsection (2) below—
    - (a) a tenancy shall not be a protected tenancy at any time when the interest of the landlord under the tenancy belongs to Her Majesty in right of the Crown or to a government department or is held in trust for Her Majesty for the purposes of a government department; and
    - (b) a person shall not at any time be a statutory tenant of a dwelling-house if the interest of his immediate landlord would at that time belong or be held as mentioned in paragraph (a) above.
  - (2) An interest belonging to Her Majesty in right of the Crown shall not prevent a tenancy from being a protected tenancy or a person from being a statutory tenant if the interest is under the management of the Crown Estate Commissioners.”.
- (2) In subsection (5) of section 19 of the 1977 Act the words (in paragraph (b)) "or of the Duchy of Lancaster or to the Duchy of Cornwall " are omitted and at the end of the subsection there are inserted the words " except that an interest belonging to Her Majesty in right of the Crown does not prevent a contract from being a restricted contract if the interest is under the management of the Crown Estate Commissioners ".
- (3) In section 5 of the Rent (Agriculture) Act 1976 the following is substituted for subsection (1) :
 

“(1) person shall not at any time be a statutory tenant of a dwelling-house if the interest of his immediate landlord would, at that time—

  - (a) belong to Her Majesty in right of the Crown or to a government department, or
  - (b) be held in trust for Her Majesty for the purposes of a government department;

except that an interest belonging to Her Majesty in right of the Crown shall not prevent a person from being a statutory tenant if the interest is under the management of the Crown Estate Commissioners.”.
- (4) In the Landlord and Tenant Act 1954—
  - (a) the following is inserted at the end of section 56 :
 

“(7) Part I of this Act shall apply where—



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- (a) there is an interest belonging to Her Majesty in right of the Crown and that interest is under the management of the Crown Estate Commissioners; or
  - (b) there is an interest belonging to Her Majesty in right of the Duchy of Lancaster or belonging to the Duchy of Cornwall; as if it were an interest not so belonging.”;
- (b) in section 21(6) the following is substituted for the definition of " interest not bound by this Part of this Act " :

“In this subsection ' interest not bound by this Part of this Act' means an interest which belongs to Her Majesty in right of the Crown and is not under the management of the Crown Estate Commissioners or an interest belonging to a government department or held on behalf of Her Majesty for the purposes of a government department.”.

- (5) Schedule 8 to this Act has effect for making certain provisions consequential on this section.

#### **74 Housing association and housing trust tenancies under Rent Act 1977**

- (1) In section 15 of the 1977 Act (tenancies not protected when landlord's interest belongs to housing association or housing trust etc.) subsection (4), and in subsection (1) the words " in respect of which any of the conditions specified in subsection (4) below is fulfilled ", are hereby repealed.

- (2) For subsection (5) of section 15 there is substituted the following subsection—

“(5) In subsection (2) above ' housing trust' means a corporation or body of persons which—

- (a) is required by the terms of its constituent instrument to use the whole of its funds, including any surplus which may arise from its operations, for the purpose of providing housing accommodation; or
- (b) is required by the terms of its constituent instrument to devote the whole, or substantially the whole, of its funds to charitable purposes and in fact uses the whole, or substantially the whole, of its funds for the purpose of providing housing accommodation.”.

- (3) Schedule 9 to this Act has effect for the purpose of supplementing this section.

#### **75 Proceedings for possession of certain dwelling-houses**

- (1) Section 100 of the 1977 Act (which gives the court an extended discretion in actions for possession of certain dwelling-houses) is amended as follows.

- (2) For subsection (3) there is substituted the following subsection—

“(3) On any such adjournment as is referred to in subsection (1) above or any such stay, suspension or postponement as is referred to in subsection (2) above, the court shall, unless it considers that to do so would cause exceptional hardship to the tenant or would otherwise be unreasonable, impose conditions with regard to payment by the tenant of arrears of rent (if any) and rent or payments in respect of occupation after termination of the tenancy (mesne profits) and may impose such other conditions as it thinks fit.”.

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(3) After subsection (4) there are inserted the following subsections—

“(4A) Subsection (4B) below applies in any case where—

- (a) proceedings are brought for possession of a dwelling-house which is let on a protected tenancy or subject to a statutory tenancy;
- (b) the tenant's spouse or former spouse, having rights of occupation under the Matrimonial Homes Act 1967, is then in occupation of the dwelling-house ; and
- (c) the tenancy is terminated as a result of those proceedings.

(4B) In any case to which this subsection applies, the spouse or former spouse shall, so long as he or she remains in occupation, have the same rights in relation to, or in connection with, any such adjournment as is referred to in subsection (1) above or any such stay, suspension or postponement as is referred to in subsection (2) above, as he or she would have if those rights of occupation were not affected by the termination of the tenancy.”.

(4) Section 7 of the Rent (Agriculture) Act 1976 (which corresponds to section 100 of the 1977 Act) is amended as follows.

(5) After subsection (2) there is inserted the following subsection—

“(2A) In those cases the court may adjourn for such period or periods as it thinks fit”.

(6) For subsection (4) there is substituted the following subsection—

“(4) On any such adjournment as is referred to in subsection (2A) above or any such stay, suspension or postponement as is referred to in subsection (3) above, the court shall, unless it considers that to do so would cause exceptional hardship to the tenant or would otherwise be unreasonable, impose conditions with regard to payment by the tenant of arrears of rent (if any) and rent or payments in respect of occupation after termination of the tenancy (mesne profits) and may impose such other conditions as it thinks fit.”.

(7) After subsection (5) there are inserted the following subsections—

“(5A) Subsection (5B) below applies in any case where

- (a) proceedings are brought for possession of a dwelling-house which is subject to a protected occupancy or statutory tenancy;
- (b) the tenant's spouse or former spouse, having rights of occupation under the Matrimonial Homes Act 1967, is then in occupation of the dwelling-house; and
- (c) the tenancy is terminated as a result of those proceedings.

(5B) In any case to which this subsection applies, the spouse or former spouse shall, so long as he or she remains in occupation, have the same rights in relation to or in connection with any such adjournment as is referred to in subsection (2A) above or any such stay, suspension or postponement as is referred to in subsection (3) above as he or she would have if those rights of occupation were not affected by the termination of the tenancy.”.

## **76 Statutory tenancies by succession**

- (1) In Schedule 1 to the 1977 Act, for paragraph 2 (under which on the death of the original tenant under a protected or statutory tenancy his widow if residing with him at his death becomes a statutory tenant by succession) there is substituted the following paragraph—

“2 The surviving spouse (if any) of the original tenant, if residing in the dwelling-house immediately before the death of the original tenant, shall after the death be the statutory tenant if and so long as he or she occupies the dwelling-house as his or her residence.”

- (2) For paragraph 6 of that Schedule (similar provision in relation to death of first successor) there is substituted the following paragraph—

“6 The surviving spouse (if any) of the first successor, if residing in the dwelling-house immediately before the death of the first successor, shall after the death be the statutory tenant if and so long as he or she occupies the dwelling-house as his or her residence.”

- (3) In sections 3(2) and (3)(a) and 4(3) and (4)(a) of the Rent (Agriculture) Act 1976 (which correspond to provisions in Schedule 1 to the 1977 Act) for the words " with him at his death " there shall be substituted in each case, the words " in the dwelling-house immediately before his death ".

- (4) The amendments made by this section have effect only in relation to deaths occurring after the commencement of the subsection concerned.

## **77 Amendment of Part VI of Rent Act 1977**

Part VI of the 1977 Act (rent limit for dwellings let by housing associations, housing trusts and the Housing Corporation) is amended in accordance with the provisions of Schedule 10 to this Act.

## **78 Allowable premiums in relation to certain long tenancies**

- (1) Section 127 of the 1977 Act shall have effect and be deemed always to have had effect as if for paragraph (c) of subsection (2) there were substituted the paragraph set out in subsection (2) below and at the end of subsection (5) there were added the words set out in subsection (3) below.

- (2) The substituted paragraph is—

“(c) that the terms of the tenancy do not inhibit both the assignment and the underletting of the whole of the premises comprised in the tenancy”.

- (3) The added words are " and for the purposes of subsections (2)(c) and (3B)(d) above the terms of a tenancy inhibit an assignment or underletting if they—

- (a) preclude it; or
- (b) permit it subject to a consent but exclude section 144 of the Law of Property Act 1925 (no payment in nature of fine); or
- (c) permit it subject to a consent but require in connection with a request for consent the making of an offer to surrender the tenancy.”.

- (4) After subsection (3) of section 127 there are inserted the following subsections—

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“(3A) If the conditions in subsection (3B) below are satisfied in respect of a tenancy, this Part of this Act shall not apply to that tenancy and, together with Part VII of the Rent Act 1968 and the enactments replaced by Part VII, shall be deemed never to have applied to it.

(3B) The conditions are that—

- (a) the tenancy was granted before 16th July 1980;
- (b) a premium was lawfully required and paid on the grant of the tenancy ;
- (c) the tenancy was, at the time when it was granted, a tenancy at a low rent; and
- (d) the terms of the tenancy do not inhibit both the assignment and the underletting of the whole of the premises comprised in the tenancy.

(3C) If the conditions in subsection (3D) below are satisfied in respect of a tenancy, this section shall have effect, in relation to that tenancy, as if for the words " 20 years " and " 21 years ", in subsections (2)(b) and (3) above there were substituted, respectively, the words " 6 years " and " 7 years ".

(3D) The conditions are that—

- (a) the tenancy is granted after 15th July 1980 ;
- (b) at the time when it is granted it is a tenancy at a low rent; and
- (c) the terms of the tenancy ensure that any variation of the sums payable by the tenant otherwise than in respect of rates, services, repairs or maintenance, cannot lead to those sums exceeding an annual rate of two-thirds of the rateable value of the dwelling-house at the date when the variation is made.

For the purposes of this subsection the rateable value of a dwelling-house shall be ascertained in accordance with section 25 of this Act (disregarding subsection (4)) by reference to the value shown in the valuation list at the date when the variation is made.”.

## 79 **Meaning of " premium " in Part IX of Rent Act 1977**

In section 128 of the 1977 Act (interpretation of Part IX, which prohibits premiums etc.) for the definition of " premium", in subsection (1), there is substituted the following definition—

“' premium' includes—

- (a) any fine or other like sum;
- (b) any other pecuniary consideration in addition to rent; and
- (c) any sum paid by way of a deposit, other than one which does not exceed one-sixth of the annual rent and is reasonable in relation to the potential liability in respect of which it is paid.”