



# Housing Act 1985

## 1985 CHAPTER 68

### PART IV

#### SECURE TENANCIES AND RIGHTS OF SECURE TENANTS

##### *Repairs and improvements*

#### **96 Right to carry out repairs.**

- (1) The Secretary of State may by regulations make a scheme for entitling secure tenants, subject to and in accordance with the provisions of the scheme—
  - (a) to carry out to the dwelling-houses of which they are secure tenants repairs which their landlords are obliged by repairing covenants to carry out, and
  - (b) after carrying out the repairs, to recover from their landlords such sums as may be determined by or under the scheme.
- (2) The regulations may make such procedural, incidental, supplementary and transitional provision as may appear to the Secretary of State to be necessary or expedient, and may in particular—
  - (a) provide for questions arising under the scheme to be referred to and determined by the county court;
  - (b) provide that where a secure tenant makes application under the scheme his landlord's obligation under the repairing covenants shall cease to apply for such period and to such extent as may be determined by or under the scheme.
- (3) The regulations may make different provision with respect to different cases or descriptions of case, including different provision for different areas.
- (4) Regulations under this section shall be made by statutory instrument which shall be subject to annulment in pursuance of a resolution of either House of Parliament.
- (5) In this section “repairing covenant”, in relation to a dwelling-house, means a covenant, whether express or implied, obliging the landlord to keep in repair the dwelling-house or any part of the dwelling-house.

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## 97 Tenant’s improvements require consent.

- (1) It is a term of every secure tenancy that the tenant will not make any improvement without the written consent of the landlord.
- (2) In this Part “improvement” means any alteration in, or addition to, a dwelling-house, and includes—
  - (a) any addition to or alteration in landlord’s fixtures and fittings,
  - (b) any addition or alteration connected with the provision of services to the dwelling-house,
  - (c) the erection of a wireless or television aerial, and
  - (d) the carrying out of external decoration.
- (3) The consent required by virtue of subsection (1) shall not be unreasonably withheld, and if unreasonably withheld shall be treated as given.
- (4) The provisions of this section have effect, in relation to secure tenancies, in place of section 19(2) of the <sup>M1</sup>Landlord and Tenant Act 1927 (general provisions as to covenants, &c. not to make improvements without consent).

### Marginal Citations

M1 1927 c. 36.

## 98 Provisions as to consents required by s. 97.

- (1) If a question arises whether the withholding of a consent required by virtue of section 97 (landlord’s consent to improvements) was unreasonable, it is for the landlord to show that it was not.
- (2) In determining that question the court shall, in particular, have regard to the extent to which the improvement would be likely—
  - (a) to make the dwelling-house, or any other premises, less safe for occupiers,
  - (b) to cause the landlord to incur expenditure which it would be unlikely to incur if the improvement were not made, or
  - (c) to reduce the price which the dwelling-house would fetch if sold on the open market or the rent which the landlord would be able to charge on letting the dwelling-house.
- (3) A consent required by virtue of section 97 may be validly given notwithstanding that it follows, instead of preceding, the action requiring it.
- (4) Where a tenant has applied in writing for a consent which is required by virtue of section 97—
  - (a) the landlord shall if it refuses consent give the tenant a written statement of the reason why consent was refused, and
  - (b) if the landlord neither gives nor refuses to give consent within a reasonable time, consent shall be taken to have been withheld.

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## 99 Conditional consent to improvements.

- (1) Consent required by virtue of section 97 (landlord's consent to improvements) may be given subject to conditions.
- (2) If the tenant has applied in writing for consent and the landlord gives consent subject to an unreasonable condition, consent shall be taken to have been unreasonably withheld.
- (3) If a question arises whether a condition was reasonable, it is for the landlord to show that it was.
- (4) A failure by a secure tenant to satisfy a reasonable condition imposed by his landlord in giving consent to an improvement which the tenant proposes to make, or has made, shall be treated for the purposes of this Part as a breach by the tenant of an obligation of his tenancy.

VALID FROM 01/02/1994

### [<sup>F1</sup>99A Right to compensation for improvements.

- (1) The powers conferred by this section shall be exercisable as respects cases where a secure tenant has made an improvement and—
  - (a) the work on the improvement was begun not earlier than the commencement of section 122 of the Leasehold Reform, Housing and Urban Development Act 1993,
  - (b) the landlord, or a predecessor in title of the landlord (being a local authority), has given its written consent to the improvement or is to be treated as having given its consent, and
  - (c) at the time when the tenancy comes to an end the landlord is a local authority and the tenancy is a secure tenancy.
- (2) The Secretary of State may make regulations for entitling the qualifying person or persons (within the meaning given by section 99B)—
  - (a) at the time when the tenancy comes to an end, and
  - (b) subject to and in accordance with the regulations,
 to be paid compensation by the landlord in respect of the improvement.
- (3) The regulations may provide that compensation shall be not payable if—
  - (a) the improvement is not of a prescribed description,
  - (b) the tenancy comes to an end in prescribed circumstances,
  - (c) compensation has been paid under section 100 in respect of the improvement, or
  - (d) the amount of any compensation which would otherwise be payable is less than a prescribed amount;
 and for the purposes of this subsection a prescribed description may be framed by reference to any circumstances whatever.
- (4) The regulations may provide that the amount of any compensation payable shall not exceed a prescribed amount but, subject to that, shall be determined by the landlord, or calculated, in such manner, and taking into account such matters, as may be prescribed.

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- (5) The regulations may also make such procedural, incidental, supplementary and transitional provisions as may appear to the Secretary of State necessary or expedient, and may in particular—
- (a) provide for the manner in which and the period within which claims for compensation under the regulations are to be made, and for the procedure to be followed in determining such claims,
  - (b) prescribe the form of any document required to be used for the purposes of or in connection with such claims,
  - (c) provide for questions arising under the regulations to be determined by the district valuer or the county court, and
  - (d) enable the landlord to set off against any compensation payable under the regulations any sums owed to it by the qualifying person or persons.
- (6) Nothing in subsections (3) to (5) shall be taken as prejudicing the generality of subsection (2).
- (7) Regulations under this section—
- (a) may make different provision with respect to different cases or descriptions of case, including different provision for different areas, and
  - (b) shall be made by statutory instrument which (except in the case of regulations making only such provision as is mentioned in subsection (5)(b)) shall be subject to annulment in pursuance of a resolution of either House of Parliament.
- (8) For the purposes of this section and section 99B, a tenancy shall be treated as coming to an end if—
- (a) it ceases to be a secure tenancy by reason of the landlord condition no longer being satisfied, or
  - (b) it is assigned, with the consent of the landlord—
    - (i) to another secure tenant who satisfies the condition in subsection (2) of section 92 (assignments by way of exchange), or
    - (ii) to an assured tenant who satisfies the conditions in subsection (2A) of that section.]

#### Textual Amendments

**F1** S. 99A, 99B inserted (1.2.1994) by 1993 c. 28, s. 122; S.I. 1993/2762, art. 4(b) (with saving in art. 5(2)).

#### [<sup>F2</sup>99B Persons qualifying for compensation.

- (1) A person is a qualifying person for the purposes of section 99A(2) if—
  - (a) he is, at the time when the tenancy comes to an end, the tenant or, in the case of a joint tenancy at that time, one of the tenants, and
  - (b) he is a person to whom subsection (2) applies.
- (2) This subsection applies to—
  - (a) the improving tenant;
  - (b) a person who became a tenant jointly with the improving tenant;

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- (c) a person in whom the tenancy was vested, or to whom the tenancy was disposed of, under section 89 (succession to periodic tenancy) or section 90 (devolution of term certain) on the death of the improving tenant or in the course of the administration of his estate;
  - (d) a person to whom the tenancy was assigned by the improving tenant and who would have been qualified to succeed him if he had died immediately before the assignment;
  - (e) a person to whom the tenancy was assigned by the improving tenant in pursuance of an order made under [F3 section 23A or 24] of the Matrimonial Causes Act 1973 (property adjustment orders in connection with matrimonial proceedings);
  - (f) a spouse or former spouse of the improving tenant to whom the tenancy has been transferred by an order under paragraph 2 of Schedule 1 to the Matrimonial Homes Act 1983.
- (3) Subsection (2)(c) does not apply in any case where the tenancy ceased to be a secure tenancy by virtue of section 89(3) or, as the case may be, section 90(3).
- (4) Where, in the case of two or more qualifying persons, one of them (“the missing person”) cannot be found—
- (a) a claim under regulations made under section 99A may be made by, and compensation under those regulations may be paid to, the other qualifying person or persons; but
  - (b) the missing person shall be entitled to recover his share of any compensation so paid from that person or those persons.
- (5) In this section “the improving tenant” means—
- (a) the tenant by whom the improvement mentioned in section 99A(1) was made, or
  - (b) in the case of a joint tenancy at the time when the improvement was made, any of the tenants at that time.

#### Textual Amendments

- F2** S. 99A, 99B inserted (1.2.1994) by 1993 c. 28, s. 122; S.I. 1993/2762, art. 4(b) (with saving in art. 5(2)).
- F3** Words in s. 99B(2)(e) substituted (*prosp.*) by 1996 c. 27, s. 66(1)(3), Sch. 8 Pt. I para. 34 (with Sch. 9 para. 5)

### 100 Power to reimburse cost of tenant’s improvements.

- (1) Where a secure tenant has made an improvement and—
- (a) the work on the improvement was begun on or after 3rd October, 1980,
  - (b) the landlord, or a predecessor in title of the landlord, has given its written consent to the improvement or is treated as having given its consent, and
  - (c) the improvement has materially added to the price which the dwelling-house may be expected to fetch if sold on the open market, or the rent which the landlord may be expected to be able to charge on letting the dwelling-house,
- the landlord may, at or after the end of the tenancy, make to the tenant (or his personal representatives) such payment in respect of the improvement as the landlord considers to be appropriate.

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- (2) The amount which a landlord may pay under this section in respect of an improvement shall not exceed the cost, or likely cost, of the improvement after deducting the amount of any improvement grant, intermediate grant, special grant [<sup>F4</sup>or repairs grant][<sup>F4</sup>, repairs grant or common parts grant] under Part XV in respect of the improvement.

[<sup>F5</sup>(2A) In subsection (2)—

- (a) the reference to an improvement grant under Part XV includes a reference to a renovation grant, disabled facilities grant or HMO grant under Part VIII of the Local Government and Housing Act 1989; and
- (b) the reference to a common parts grant under Part XV includes a reference to a common parts grant under the said Part VIII.]

- (3) The power conferred by this section to make such payments as are mentioned in subsection (1) is in addition to any other power of the landlord to make such payments.

#### Textual Amendments

- F4** Words “, repairs grant or common parts grant” substituted (*prosp.*) for words “or repairs grant” by [Housing and Planning Act 1986 \(c. 63, SIF 61\)](#), ss. 15, 57(2), [Sch. 3 Pt. I para. 16\(2\)](#)
- F5** [S.100\(2A\)](#) inserted by [Local Government and Housing Act 1989 \(c. 42, SIF 61\)](#), s. 194(1), [Sch. 11 para. 66](#)

## 101 Rent not to be increased on account of tenant’s improvements.

- (1) This section applies where a person (the “improving tenant”) who is or was the secure tenant of a dwelling-house has lawfully made an improvement and has borne the whole or part of its cost; and for the purposes of this section a person shall be treated as having borne any cost which he would have borne but for an improvement grant, intermediate grant, special grant or [<sup>F6</sup>, repairs grant or common parts grant] under Part XV.

[<sup>F7</sup>(1A) In subsection (1)—

- (a) the reference to an improvement grant under Part XV includes a reference to a renovation grant, disabled facilities grant or HMO grant under Part VIII of the Local Government and Housing Act 1989; and
- (b) the reference to a common parts grant under Part XV includes a reference to a common parts grant under the said Part VIII.]

- (2) In determining, at any time whilst the improving tenant or his qualifying successor is a secure tenant of the dwelling-house, whether or to what extent to increase the rent, the landlord shall treat the improvement as justifying only such part of an increase which would otherwise be attributable to the improvement as corresponds to the part of the cost which was not borne by the tenant (and accordingly as not justifying an increase if he bore the whole cost).

- (3) The following are qualifying successors of an improving tenant—

- [<sup>F8</sup>(a) a person in whom the tenancy was vested, or to whom the tenancy was disposed of, under section 89 (succession to periodic tenancy) or section 90 (devolution of term certain) on the death of the tenant or in the course of the administration of his estate;]
- (b) a person to whom the tenancy was assigned by the tenant and who would have been qualified to succeed him if he had died immediately before the assignment,

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- (c) a person to whom the tenancy was assigned by the tenant in pursuance of an order made under section 24 of the <sup>M2</sup>Matrimonial Causes Act 1973 (property adjustment orders in connection with matrimonial proceedings);
  - (d) a spouse or former spouse of the tenant to whom the tenancy has been transferred by an order under paragraph 22 of Schedule 1 to the <sup>M3</sup>Matrimonial Homes Act 1983.
- (4) This section does not apply to an increase of rent attributable to rates [<sup>F9</sup> or to council tax].

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#### Textual Amendments

- F6** Words substituted by [Housing and Planning Act 1986 \(c. 63, SIF 61\)](#), ss. 15, 57(2), **Sch. 3 Pt. II para. 16(3)**
- F7** [S. 101\(1A\)](#) inserted by [Local Government and Housing Act 1989 \(c. 42, SIF 61\)](#), s. 194(1), **Sch. 11 para. 67**
- F8** [S. 101\(3\)\(a\)](#) substituted (11.10.1993) by 1993 c. 28, s. 187(1), **Sch. 21 para. 10**; S.I. 1993/2134, **arts. 2, 4(a)**.
- F9** Words in [s. 101\(4\)](#) inserted (1.4.1993) by S.I. 1993/651, art. 2(1), **Sch. 1 para. 12**.

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#### Marginal Citations

- M2** 1973 c. 18.
- M3** 1983 c. 19.

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