



# Housing Act 1996

## 1996 CHAPTER 52

### PART V

#### CONDUCT OF TENANTS

#### CHAPTER I

#### INTRODUCTORY TENANCIES

##### *General provisions*

#### **124** **Introductory tenancies.**

- (1) A local housing authority or a housing action trust may elect to operate an introductory tenancy regime.
- (2) When such an election is in force, every periodic tenancy of a dwelling-house entered into or adopted by the authority or trust shall, if it would otherwise be a secure tenancy, be an introductory tenancy, unless immediately before the tenancy was entered into or adopted the tenant or, in the case of joint tenants, one or more of them was—
  - (a) a secure tenant of the same or another dwelling-house, or
  - (b) an assured tenant of a registered social landlord (otherwise than under an assured shorthold tenancy) in respect of the same or another dwelling-house.
- (3) Subsection (2) does not apply to a tenancy entered into or adopted in pursuance of a contract made before the election was made.
- (4) For the purposes of this Chapter a periodic tenancy is adopted by a person if that person becomes the landlord under the tenancy, whether on a disposal or surrender of the interest of the former landlord.
- (5) An election under this section may be revoked at any time, without prejudice to the making of a further election.

*Status: Point in time view as at 31/05/2005.*

*Changes to legislation: Housing Act 1996, Part V is up to date with all changes known to be in force on or before 18 June 2024. There are changes that may be brought into force at a future date. Changes that have been made appear in the content and are referenced with annotations. (See end of Document for details)*

## **125 Duration of introductory tenancy.**

- (1) A tenancy remains an introductory tenancy until the end of the trial period, unless one of the events mentioned in subsection (5) occurs before the end of that period.
- (2) The “trial period” is the period of one year beginning with—
  - (a) in the case of a tenancy which was entered into by a local housing authority or housing action trust—
    - (i) the date on which the tenancy was entered into, or
    - (ii) if later, the date on which a tenant was first entitled to possession under the tenancy; or
  - (b) in the case of a tenancy which was adopted by a local housing authority or housing action trust, the date of adoption;
 subject as follows.
- (3) Where the tenant under an introductory tenancy was formerly a tenant under another introductory tenancy, or held an assured shorthold tenancy from a registered social landlord, any period or periods during which he was such a tenant shall count towards the trial period, provided—
  - (a) if there was one such period, it ended immediately before the date specified in subsection (2), and
  - (b) if there was more than one such period, the most recent period ended immediately before that date and each period succeeded the other without interruption.
- (4) Where there are joint tenants under an introductory tenancy, the reference in subsection (3) to the tenant shall be construed as referring to the joint tenant in whose case the application of that subsection produces the earliest starting date for the trial period.
- (5) A tenancy ceases to be an introductory tenancy if, before the end of the trial period—
  - (a) the circumstances are such that the tenancy would not otherwise be a secure tenancy,
  - (b) a person or body other than a local housing authority or housing action trust becomes the landlord under the tenancy,
  - (c) the election in force when the tenancy was entered into or adopted is revoked, or
  - (d) the tenancy ceases to be an introductory tenancy by virtue of section 133(3) (succession).
- (6) A tenancy does not come to an end merely because it ceases to be an introductory tenancy, but a tenancy which has once ceased to be an introductory tenancy cannot subsequently become an introductory tenancy.
- (7) This section has effect subject to section 130 (effect of beginning proceedings for possession).

### **[<sup>F1</sup>125A Extension of trial period by 6 months**

- (1) If both of the following conditions are met in relation to an introductory tenancy, the trial period is extended by 6 months.

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- (2) The first condition is that the landlord has served a notice of extension on the tenant at least 8 weeks before the original expiry date.
- (3) The second condition is that either—
  - (a) the tenant has not requested a review under section 125B in accordance with subsection (1) of that section, or
  - (b) if he has, the decision on the review was to confirm the landlord’s decision to extend the trial period.
- (4) A notice of extension is a notice—
  - (a) stating that the landlord has decided that the period for which the tenancy is to be an introductory tenancy should be extended by 6 months, and
  - (b) complying with subsection (5).
- (5) A notice of extension must—
  - (a) set out the reasons for the landlord’s decision, and
  - (b) inform the tenant of his right to request a review of the landlord’s decision and of the time within which such a request must be made.
- (6) In this section and section 125B “the original expiry date” means the last day of the period of one year that would apply as the trial period apart from this section.

#### Textual Amendments

- F1** Ss. 125A, 125B inserted (18.11.2004 for specified purposes) by [Housing Act 2004 \(c. 34\)](#), **ss. 179(3), 270(2)(b)** (with [s. 179\(4\)](#))

### **125B Review of decision to extend trial period**

- (1) A request for review of the landlord’s decision that the trial period for an introductory tenancy should be extended under section 125A must be made before the end of the period of 14 days beginning with the day on which the notice of extension is served.
- (2) On a request being duly made to it, the landlord shall review its decision.
- (3) The Secretary of State may make provision by regulations as to the procedure to be followed in connection with a review under this section.

Nothing in the following provisions affects the generality of this power.

- (4) Provision may be made by regulations—
  - (a) requiring the decision on review to be made by a person of appropriate seniority who was not involved in the original decision, and
  - (b) as to the circumstances in which the person concerned is entitled to an oral hearing, and whether and by whom he may be represented at such a hearing.
- (5) The landlord shall notify the tenant of the decision on the review.

If the decision is to confirm the original decision, the landlord shall also notify him of the reasons for the decision.
- (6) The review shall be carried out and the tenant notified before the original expiry date.]

*Status: Point in time view as at 31/05/2005.*

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### Textual Amendments

- F1** Ss. 125A, 125B inserted (18.11.2004 for specified purposes) by [Housing Act 2004 \(c. 34\)](#), **ss. 179(3), 270(2)(b)** (with s. 179(4))

## 126 Licences.

- (1) The provisions of this Chapter apply in relation to a licence to occupy a dwelling-house (whether or not granted for a consideration) as they apply in relation to a tenancy.
- (2) Subsection (1) does not apply to a licence granted as a temporary expedient to a person who entered the dwelling-house or any other land as a trespasser (whether or not, before the grant of that licence, another licence to occupy that or another dwelling-house had been granted to him).

### *Proceedings for possession*

## 127 Proceedings for possession.

- (1) The landlord may only bring an introductory tenancy to an end by obtaining an order of the court for the possession of the dwelling-house.
- (2) The court shall make such an order unless the provisions of section 128 apply.
- (3) Where the court makes such an order, the tenancy comes to an end on the date on which the tenant is to give up possession in pursuance of the order.

## 128 Notice of proceedings for possession.

- (1) The court shall not entertain proceedings for the possession of a dwelling-house let under an introductory tenancy unless the landlord has served on the tenant a notice of proceedings complying with this section.
- (2) The notice shall state that the court will be asked to make an order for the possession of the dwelling-house.
- (3) The notice shall set out the reasons for the landlord's decision to apply for such an order.
- (4) The notice shall specify a date after which proceedings for the possession of the dwelling-house may be begun.

The date so specified must not be earlier than the date on which the tenancy could, apart from this Chapter, be brought to an end by notice to quit given by the landlord on the same date as the notice of proceedings.

- (5) The court shall not entertain any proceedings for possession of the dwelling-house unless they are begun after the date specified in the notice of proceedings.
- (6) The notice shall inform the tenant of his right to request a review of the landlord's decision to seek an order for possession and of the time within which such a request must be made.

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- (7) The notice shall also inform the tenant that if he needs help or advice about the notice, and what to do about it, he should take it immediately to a Citizens' Advice Bureau, a housing aid centre, a law centre or a solicitor.

## **129 Review of decision to seek possession.**

- (1) A request for review of the landlord's decision to seek an order for possession of a dwelling-house let under an introductory tenancy must be made before the end of the period of 14 days beginning with the day on which the notice of proceedings is served.
- (2) On a request being duly made to it, the landlord shall review its decision.
- (3) The Secretary of State may make provision by regulations as to the procedure to be followed in connection with a review under this section.

Nothing in the following provisions affects the generality of this power.

- (4) Provision may be made by regulations—
- (a) requiring the decision on review to be made by a person of appropriate seniority who was not involved in the original decision, and
  - (b) as to the circumstances in which the person concerned is entitled to an oral hearing, and whether and by whom he may be represented at such a hearing.
- (5) The landlord shall notify the person concerned of the decision on the review.

If the decision is to confirm the original decision, the landlord shall also notify him of the reasons for the decision.

- (6) The review shall be carried out and the tenant notified before the date specified in the notice of proceedings as the date after which proceedings for the possession of the dwelling-house may be begun.

### **Commencement Information**

- II** S. 129 wholly in force 4.2.1997: s. 129 not in force at Royal Assent, see s. 232(1)-(3); s. 129(3)(4) in force at 1.10.1996 by [S.I. 1996/2402](#), [art. 3](#) (with transitional provisions and savings in the [Sch.](#)); s. 129(1)(2)(5)(6) in force at 4.2.1997 by [S.I. 1997/66](#), [art. 2](#)

## **130 Effect of beginning proceedings for possession.**

- (1) This section applies where the landlord has begun proceedings for the possession of a dwelling-house let under an introductory tenancy and—
- (a) the trial period ends, or
  - (b) any of the events specified in section 125(5) occurs (events on which a tenancy ceases to be an introductory tenancy).
- (2) Subject to the following provisions, the tenancy remains an introductory tenancy until—
- (a) the tenancy comes to an end in pursuance of section 127(3) (that is, on the date on which the tenant is to give up possession in pursuance of an order of the court), or
  - (b) the proceedings are otherwise finally determined.

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- (3) If any of the events specified in section 125(5)(b) to (d) occurs, the tenancy shall thereupon cease to be an introductory tenancy but—
- (a) the landlord (or, as the case may be, the new landlord) may continue the proceedings, and
  - (b) if he does so, section 127(2) and (3) (termination by landlord) apply as if the tenancy had remained an introductory tenancy.
- (4) Where in accordance with subsection (3) a tenancy ceases to be an introductory tenancy and becomes a secure tenancy, the tenant is not entitled to exercise the right to buy under Part V of the <sup>M1</sup>Housing Act 1985 unless and until the proceedings are finally determined on terms such that he is not required to give up possession of the dwelling-house.
- (5) For the purposes of this section proceedings shall be treated as finally determined if they are withdrawn or any appeal is abandoned or the time for appealing expires without an appeal being brought.

**Marginal Citations**

**M1** 1985 c. 68.

*Succession on death of tenant*

**131 Persons qualified to succeed tenant.**

A person is qualified to succeed the tenant under an introductory tenancy if he occupies the dwelling-house as his only or principal home at the time of the tenant's death and either—

- (a) he is the tenant's spouse, or
- (b) he is another member of the tenant's family and has resided with the tenant throughout the period of twelve months ending with the tenant's death;

unless, in either case, the tenant was himself a successor, as defined in section 132.

**132 Cases where the tenant is a successor.**

- (1) The tenant is himself a successor if—
- (a) the tenancy vested in him by virtue of section 133 (succession to introductory tenancy),
  - (b) he was a joint tenant and has become the sole tenant,
  - (c) he became the tenant on the tenancy being assigned to him (but subject to subsections (2) and (3)), or
  - (d) he became the tenant on the tenancy being vested in him on the death of the previous tenant.
- (2) A tenant to whom the tenancy was assigned in pursuance of an order under section 24 of the <sup>M2</sup>Matrimonial Causes Act 1973 (property adjustment orders in connection with matrimonial proceedings) or section 17(1) of the <sup>M3</sup>Matrimonial and Family Proceedings Act 1984 (property adjustment orders after overseas divorce, &c.) is a successor only if the other party to the marriage was a successor.

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- (3) Where within six months of the coming to an end of an introductory tenancy (“the former tenancy”) the tenant becomes a tenant under another introductory tenancy, and—
- (a) the tenant was a successor in relation to the former tenancy, and
  - (b) under the other tenancy either the dwelling-house or the landlord, or both, are the same as under the former tenancy,
- the tenant is also a successor in relation to the other tenancy unless the agreement creating that tenancy otherwise provides.

#### Marginal Citations

- M2 1973 c. 18.
- M3 1984 c. 42.

### 133 Succession to introductory tenancy.

- (1) This section applies where a tenant under an introductory tenancy dies.
- (2) Where there is a person qualified to succeed the tenant, the tenancy vests by virtue of this section in that person, or if there is more than one such person in the one to be preferred in accordance with the following rules—
- (a) the tenant’s spouse is to be preferred to another member of the tenant’s family;
  - (b) of two or more other members of the tenant’s family such of them is to be preferred as may be agreed between them or as may, where there is no such agreement, be selected by the landlord.
- (3) Where there is no person qualified to succeed the tenant, the tenancy ceases to be an introductory tenancy—
- (a) when it is vested or otherwise disposed of in the course of the administration of the tenant’s estate, unless the vesting or other disposal is in pursuance of an order made under—
    - (i) section 24 of the Matrimonial Causes Act 1973 (property adjustment orders made in connection with matrimonial proceedings),
    - (ii) section 17(1) of the <sup>M4</sup>Matrimonial and Family Proceedings Act 1984 (property adjustment orders after overseas divorce, &c.), or
    - (iii) paragraph 1 of Schedule 1 to the <sup>M5</sup>Children Act 1989 (orders for financial relief against parents); or
  - (b) when it is known that when the tenancy is so vested or disposed of it will not be in pursuance of such an order.

#### Marginal Citations

- M4 1984 c. 42.
- M5 1989 c. 41.

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### *Assignment*

#### **134 Assignment in general prohibited.**

- (1) An introductory tenancy is not capable of being assigned except in the cases mentioned in subsection (2).
- (2) The exceptions are—
  - (a) an assignment in pursuance of an order made under—
    - (i) section 24 of the <sup>M6</sup>Matrimonial Causes Act 1973 (property adjustment orders in connection with matrimonial proceedings),
    - (ii) section 17(1) of the Matrimonial and Family Proceedings Act 1984 (property adjustment orders after overseas divorce, &c.), or
    - (iii) paragraph 1 of Schedule 1 to the Children Act 1989 (orders for financial relief against parents);
  - (b) an assignment to a person who would be qualified to succeed the tenant if the tenant died immediately before the assignment.
- (3) Subsection (1) also applies to a tenancy which is not an introductory tenancy but would be if the tenant, or where the tenancy is a joint tenancy, at least one of the tenants, were occupying or continuing to occupy the dwelling-house as his only or principal home.

#### **Marginal Citations**

**M6** 1973 c. 18.

### *Repairs*

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

The Secretary of State may by regulations under section 96 of the <sup>M7</sup>Housing Act 1985 (secure tenants: right to carry out repairs) apply to introductory tenants any provision made under that section in relation to secure tenants.

#### **Marginal Citations**

**M7** 1985 c. 68.

### *Provision of information and consultation*

#### **136 Provision of information about tenancies.**

- (1) Every local housing authority or housing action trust which lets dwelling-houses under introductory tenancies shall from time to time publish information about its introductory tenancies, in such form as it considers best suited to explain in simple terms, and, so far as it considers it appropriate, the effect of—
  - (a) the express terms of its introductory tenancies,
  - (b) the provisions of this Chapter, and



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- (c) the provisions of sections 11 to 16 of the <sup>M8</sup>Landlord and Tenant Act 1985 (landlord's repairing obligations),  
and shall ensure that so far as is reasonably practicable the information so published is kept up to date.
- (2) The landlord under an introductory tenancy shall supply the tenant with—
- (a) a copy of the information for introductory tenants published by it under subsection (1), and
- (b) a written statement of the terms of the tenancy, so far as they are neither expressed in the lease or written tenancy agreement (if any) nor implied by law;
- and the statement required by paragraph (b) shall be supplied on the grant of the tenancy or as soon as practicable afterwards.

#### Marginal Citations

M8 1985 c. 70.

### 137 Consultation on matters of housing management.

- (1) This section applies in relation to every local housing authority and housing action trust which lets dwelling-houses under introductory tenancies and which is a landlord authority for the purposes of Part IV of the <sup>M9</sup>Housing Act 1985 (secure tenancies).
- (2) The authority or trust shall maintain such arrangements as it considers appropriate to enable those of its introductory tenants who are likely to be substantially affected by a relevant matter of housing management—
- (a) to be informed of the proposals of the authority or trust in respect of the matter, and
- (b) to make their views known to the authority or trust within a specified period; and the authority or trust shall, before making a decision on the matter, consider any representations made to it in accordance with those arrangements.
- (3) A matter is one of housing management if, in the opinion of the authority or trust concerned, it relates to—
- (a) the management, improvement, maintenance or demolition of dwelling-houses let by the authority or trust under introductory or secure tenancies, or
- (b) the provision of services or amenities in connection with such dwelling-houses;
- but not so far as it relates to the rent payable under an introductory or secure tenancy or to charges for services or facilities provided by the authority or trust.
- (4) A matter is relevant if, in the opinion of the authority or trust concerned, it represents—
- (a) a new programme of maintenance, improvement or demolition, or
- (b) a change in the practice or policy of the authority or trust,
- and is likely substantially to affect either its introductory tenants as a whole or a group of them who form a distinct social group or occupy dwelling-houses which constitute a distinct class (whether by reference to the kind of dwelling-house, or the housing estate or other larger area in which they are situated).

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- (5) In the case of a local housing authority, the reference in subsection (3) to the provision of services or amenities is a reference only to the provision of services or amenities by the authority acting in its capacity as landlord of the dwelling-houses concerned.
- (6) The authority or trust shall publish details of the arrangements which it makes under this section, and a copy of the documents published under this subsection shall—
  - (a) be made available at its principal office for inspection at all reasonable hours, without charge, by members of the public, and
  - (b) be given, on payment of a reasonable fee, to any member of the public who asks for one.

#### Marginal Citations

**M9** 1985 c. 68.

### *Supplementary*

#### **138 Jurisdiction of county court.**

- (1) A county court has jurisdiction to determine questions arising under this Chapter and to entertain proceedings brought under this Chapter and claims, for whatever amount, in connection with an introductory tenancy.
- (2) That jurisdiction includes jurisdiction to entertain proceedings as to whether a statement supplied in pursuance of section 136(2)(b) (written statement of certain terms of tenancy) is accurate notwithstanding that no other relief is sought than a declaration.
- (3) If a person takes proceedings in the High Court which, by virtue of this section, he could have taken in the county court, he is not entitled to recover any costs.
- (4) The Lord Chancellor may make such rules and give such directions as he thinks fit for the purpose of giving effect to this section.
- (5) The rules and directions may provide—
  - (a) for the exercise by a district judge of a county court of any jurisdiction exercisable under this section, and
  - (b) for the conduct of proceedings in private.
- (6) The power to make rules is exercisable by statutory instrument which shall be subject to annulment in pursuance of a resolution of either House of Parliament.

#### Commencement Information

**I2** S. 138 wholly in force 4.2.1997: s. 138 not in force at Royal Assent, see s. 232(1)-(3); s. 138(4)-(6) in force at 1.10.1996 by [S.I. 1996/2402](#), [art. 3](#) (with transitional provisions and savings in the [Sch.](#)); s. 138(1)-(3) in force at 4.2.1997 by [S.I. 1997/66](#), [art. 2](#)

#### **139 Meaning of “dwelling-house”.**

- (1) For the purposes of this Chapter a dwelling-house may be a house or a part of a house.

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- (2) Land let together with a dwelling-house shall be treated for the purposes of this Chapter as part of the dwelling-house unless the land is agricultural land which would not be treated as part of a dwelling-house for the purposes of Part IV of the <sup>M10</sup>Housing Act 1985 (see section 112(2) of that Act).

#### Marginal Citations

M10 1985 c. 68.

### 140 Members of a person's family: Chapter I.

- (1) A person is a member of another's family within the meaning of this Chapter if—
- he is the spouse of that person, or he and that person live together as husband and wife, or
  - he is that person's parent, grandparent, child, grandchild, brother, sister, uncle, aunt, nephew or niece.
- (2) For the purpose of subsection (1)(b)—
- a relationship by marriage shall be treated as a relationship by blood,
  - a relationship of the half-blood shall be treated as a relationship of the whole blood, and
  - the stepchild of a person shall be treated as his child.

### 141 Consequential amendments: introductory tenancies.

- (1) The enactments mentioned in Schedule 14 have effect with the amendments specified there which are consequential on the provisions of this Chapter.
- (2) The Secretary of State may by order make such other amendments or repeals of any enactment as appear to him necessary or expedient in consequence of the provisions of this Chapter.
- (3) Without prejudice to the generality of subsection (2), an order under that subsection may make such provision in relation to an enactment as the Secretary of State considers appropriate as regards its application (with or without modifications) or non-application in relation to introductory tenants or introductory tenancies.

#### Commencement Information

I3 S. 14 wholly in force 4.2.1997: s. 141 not in force at Royal Assent, see s. 232(1)-(3); s. 141(2)(3) in force at 1.10.1996 by S.I. 1996/2402, art. 3 (with transitional provisions and savings in the Sch.); s. 141(1) in force at 4.2.1997 by S.I. 1997/66, art. 2

### 142 Regulations and orders.

- Any regulations or order under this Part—
- may contain such incidental, supplementary or transitional provisions, or savings, as the Secretary of State thinks fit, and
  - shall be made by statutory instrument which shall be subject to annulment in pursuance of a resolution of either House of Parliament.

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### 143 Index of defined expressions: introductory tenancies.

The following Table shows provisions defining or otherwise explaining provisions used in this Chapter (other than provisions defining or explaining an expression in the same section)—

adopt (in relation to periodic tenancy)	section 124(4)
assured tenancy and assured shorthold tenancy	section 230
dwelling-house	section 139
housing action trust	section 230
introductory tenancy and introductory tenant	section 124
local housing authority	section 230
member of family	section 140
registered social landlord	section 2
secure tenancy and secure tenant	section 230

## [<sup>F2</sup>CHAPTER 1A

### Textual Amendments

**F2** Pt. 5 Ch. 1A inserted (30.6.2004 for E., 30.9.2004 for W. for specified purposes, 30.4.2005 for W. so far as not already in force) by [Anti Social Behaviour Act 2003 \(c. 38\)](#), s. 93, [Sch. 1 para. 1](#); S.I. 2004/1502, [art. 2\(a\)\(iii\)](#); S.I. 2004/2557, [art. 2\(a\)\(ii\)](#); S.I. 2005/1225, [art. 2\(b\)](#)

### *General provisions*

#### *Demoted tenancies*

### 143A Demoted tenancies

- (1) This section applies to a periodic tenancy of a dwelling-house if each of the following conditions is satisfied.
- (2) The first condition is that the landlord is either a local housing authority or a housing action trust.
- (3) The second condition is that the tenant condition in section 81 of the Housing Act 1985 is satisfied.
- (4) The third condition is that the tenancy is created by virtue of a demotion order under section 82A of that Act.
- (5) In this Chapter—
  - (a) a tenancy to which this section applies is referred to as a demoted tenancy;
  - (b) references to demoted tenants must be construed accordingly.

#### *Duration of demoted tenancy*

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### **143B Duration of demoted tenancy**

- (1) A demoted tenancy becomes a secure tenancy at the end of the period of one year (the demotion period) starting with the day the demotion order takes effect; but this is subject to subsections (2) to (5).
  - (2) A tenancy ceases to be a demoted tenancy if any of the following paragraphs applies—
    - (a) either of the first or second conditions in section 143A ceases to be satisfied;
    - (b) the demotion order is quashed;
    - (c) the tenant dies and no one is entitled to succeed to the tenancy.
  - (3) If at any time before the end of the demotion period the landlord serves a notice of proceedings for possession of the dwelling-house subsection (4) applies.
  - (4) The tenancy continues as a demoted tenancy until the end of the demotion period or (if later) until any of the following occurs—
    - (a) the notice of proceedings is withdrawn by the landlord;
    - (b) the proceedings are determined in favour of the tenant;
    - (c) the period of 6 months beginning with the date on which the notice is served ends and no proceedings for possession have been brought.
  - (5) A tenancy does not come to an end merely because it ceases to be a demoted tenancy.
- Change of landlord*

### **143C Change of landlord**

- (1) A tenancy continues to be a demoted tenancy for the duration of the demotion period if—
  - (a) at the time the demoted tenancy is created the interest of the landlord belongs to a local housing authority or a housing action trust, and
  - (b) during the demotion period the interest of the landlord transfers to another person who is a local housing authority or a housing action trust.
- (2) Subsections (3) and (4) apply if—
  - (a) at the time the demoted tenancy is created the interest of the landlord belongs to a local housing authority or a housing action trust, and
  - (b) during the demotion period the interest of the landlord transfers to a person who is not such a body.
- (3) If the new landlord is a registered social landlord or a person who does not satisfy the landlord condition the tenancy becomes an assured shorthold tenancy.
- (4) If the new landlord is not a registered social landlord and does satisfy the landlord condition the tenancy becomes a secure tenancy.
- (5) The landlord condition must be construed in accordance with section 80 of the Housing Act 1985.]

*Proceedings for possession* <sup>F2</sup>*Proceedings for possession*

*Status: Point in time view as at 31/05/2005.*

*Changes to legislation: Housing Act 1996, Part V is up to date with all changes known to be in force on or before 18 June 2024. There are changes that may be brought into force at a future date. Changes that have been made appear in the content and are referenced with annotations. (See end of Document for details)*

### **143D Proceedings for possession**

- (1) The landlord may only bring a demoted tenancy to an end by obtaining an order of the court for possession of the dwelling-house.
- (2) The court must make an order for possession unless it thinks that the procedure under sections 143E and 143F has not been followed.
- (3) If the court makes such an order the tenancy comes to an end on the date on which the tenant is to give up possession in pursuance of the order.

#### *Notice of proceedings for possession*

### **143E Notice of proceedings for possession**

- (1) Proceedings for possession of a dwelling-house let under a demoted tenancy must not be brought unless the landlord has served on the tenant a notice of proceedings under this section.
- (2) The notice must—
  - (a) state that the court will be asked to make an order for the possession of the dwelling-house;
  - (b) set out the reasons for the landlord’s decision to apply for the order;
  - (c) specify the date after which proceedings for the possession of the dwelling-house may be begun;
  - (d) inform the tenant of his right to request a review of the landlord’s decision and of the time within which the request must be made.
- (3) The date specified under subsection (2)(c) must not be earlier than the date on which the tenancy could (apart from this Chapter) be brought to an end by notice to quit given by the landlord on the same date as the notice of proceedings.
- (4) The court must not entertain proceedings begun on or before the date specified under subsection (2)(c).
- (5) The notice must also inform the tenant that if he needs help or advice—
  - (a) about the notice, or
  - (b) about what to do about the notice,
 he must take the notice immediately to a Citizen’s Advice Bureau, a housing aid centre, a law centre or a solicitor.

#### *Review of decision to seek possession*

### **143F Review of decision to seek possession**

- (1) Before the end of the period of 14 days beginning with the date of service of a notice for possession of a dwelling-house let under a demoted tenancy the tenant may request the landlord to review its decision to seek an order for possession.
- (2) If a request is made in accordance with subsection (1) the landlord must review the decision.
- (3) The Secretary of State may by regulations make provision as to the procedure to be followed in connection with a review under this section.
- (4) The regulations may include provision—

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*Status: Point in time view as at 31/05/2005.*

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- (a) requiring the decision on review to be made by a person of appropriate seniority who was not involved in the original decision;
  - (b) as to the circumstances in which the tenant is entitled to an oral hearing, and whether and by whom he may be represented at the hearing.
- (5) The landlord must notify the tenant—
- (a) of the decision on the review;
  - (b) of the reasons for the decision.
- (6) The review must be carried out and notice given under subsection (5) before the date specified in the notice of proceedings as the date after which proceedings for possession of the dwelling-house may be begun.

#### *Effect of proceedings for possession*

### **143G Effect of proceedings for possession**

- (1) This section applies if the landlord has begun proceedings for the possession of a dwelling-house let under a demoted tenancy and—
- (a) the demotion period ends, or
  - (b) any of paragraphs (a) to (c) of section 143B(2) applies (circumstances in which a tenancy ceases to be a demoted tenancy).
- (2) If any of paragraphs (a) to (c) of section 143B(2) applies the tenancy ceases to be a demoted tenancy but the landlord (or the new landlord as the case may be) may continue the proceedings.
- (3) Subsection (4) applies if in accordance with subsection (2) a tenancy ceases to be a demoted tenancy and becomes a secure tenancy.
- (4) The tenant is not entitled to exercise the right to buy unless—
- (a) the proceedings are finally determined, and
  - (b) he is not required to give up possession of the dwelling-house.
- (5) The proceedings must be treated as finally determined if—
- (a) they are withdrawn;
  - (b) any appeal is abandoned;
  - (c) the time for appealing expires without an appeal being brought.]

#### *Succession*

#### *Succession to demoted tenancy*

### **143H Succession to demoted tenancy**

- (1) This section applies if the tenant under a demoted tenancy dies.
- (2) If the tenant was a successor, the tenancy—
- (a) ceases to be a demoted tenancy, but
  - (b) does not become a secure tenancy.
- (3) In any other case a person is qualified to succeed the tenant if—
- (a) he occupies the dwelling-house as his only or principal home at the time of the tenant's death,

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- (b) he is a member of the tenant's family, and
  - (c) he has resided with the tenant throughout the period of 12 months ending with the tenant's death.
- (4) If only one person is qualified to succeed under subsection (3) the tenancy vests in him by virtue of this section.
- (5) If there is more than one such person the tenancy vests by virtue of this section in the person preferred in accordance with the following rules—
- (a) the tenant's spouse or (if the tenant has no spouse) the person mentioned in section 143P(1)(b) is to be preferred to another member of the tenant's family;
  - (b) if there are two or more other members of the tenant's family the person preferred may be agreed between them or (if there is no such agreement) selected by the landlord.

*No successor tenant: termination*

#### **143I No successor tenant: termination**

- (1) This section applies if the demoted tenant dies and no person is qualified to succeed to the tenancy as mentioned in section 143H(3).
- (2) The tenancy ceases to be a demoted tenancy if either subsection (3) or (4) applies.
- (3) This subsection applies if the tenancy is vested or otherwise disposed of in the course of the administration of the tenant's estate unless the vesting or other disposal is in pursuance of an order under—
- (a) section 23A or 24 of the Matrimonial Causes Act 1973 (property adjustment orders in connection with matrimonial proceedings);
  - (b) section 17(1) of the Matrimonial and Family Proceedings Act 1984 (property adjustment orders after overseas divorce, etc);
  - (c) paragraph 1 of Schedule 1 to the Children Act 1989 (orders for financial relief against parents).
- (4) This subsection applies if it is known that when the tenancy is vested or otherwise disposed of in the course of the administration of the tenant's estate it will not be in pursuance of an order mentioned in subsection (3).
- (5) A tenancy which ceases to be a demoted tenancy by virtue of this section cannot subsequently become a secure tenancy.

*Successor tenants*

#### **143J Successor tenants**

- (1) This section applies for the purpose of sections 143H and 143I.
- (2) A person is a successor to a secure tenancy which is terminated by a demotion order if any of subsections (3) to (6) applies to him.
- (3) The tenancy vested in him—
- (a) by virtue of section 89 of the Housing Act 1985 or section 133 of this Act;
  - (b) under the will or intestacy of the preceding tenant.
- (4) The tenancy arose by virtue of section 86 of the Housing Act 1985 and the original fixed term was granted—



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- (a) to another person, or
  - (b) to him jointly with another person.
- (5) He became the tenant on the tenancy being assigned to him unless—
- (a) the tenancy was assigned in proceedings under section 23A or 24 of the Matrimonial Causes Act 1973 (property adjustment orders in connection with matrimonial proceedings) or section 17(1) of the Matrimonial and Family Proceedings Act 1984 (property adjustment orders after overseas divorce, etc), and
  - (b) neither he nor the other party to the marriage was a successor.
- (6) He became the tenant on assignment under section 92 of the Housing Act 1985 if he himself was a successor to the tenancy which he assigned in exchange.
- (7) A person is the successor to a demoted tenancy if the tenancy vested in him by virtue of section 143H(4) or (5).
- (8) A person is the successor to a joint tenancy if he has become the sole tenant.]

#### *[<sup>F2</sup>Assignment*

#### *Restriction on assignment*

#### **143K Restriction on assignment**

- (1) A demoted tenancy is not capable of being assigned except as mentioned in subsection (2).
- (2) The exceptions are assignment in pursuance of an order made under—
  - (a) section 24 of the Matrimonial Causes Act 1973 (property adjustment orders in connection with matrimonial proceedings);
  - (b) section 17(1) of the Matrimonial and Family Proceedings Act 1984 (property adjustment orders after overseas divorce, etc.);
  - (c) paragraph 1 of Schedule 1 to the Children Act 1989 (orders for financial relief against parents).]

#### *[<sup>F2</sup>Repairs*

#### *Right to carry out repairs*

#### **143L Right to carry out repairs**

The Secretary of State may by regulations under section 96 of the Housing Act 1985 (secure tenants: right to carry out repairs) apply to demoted tenants any provision made under that section in relation to secure tenants.]

#### *[<sup>F2</sup>Provision of information*

#### *Provision of information*

#### **143M Provision of information**

- (1) This section applies to a local housing authority or a housing action trust if it is the landlord of a demoted tenancy.

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- (2) The landlord must from time to time publish information about the demoted tenancy in such form as it thinks best suited to explain in simple terms and so far as it considers appropriate the effect of—
  - (a) the express terms of the demoted tenancy;
  - (b) the provisions of this Chapter;
  - (c) the provisions of sections 11 to 16 of the Landlord and Tenant Act 1985 (landlord’s repairing obligations).
- (3) The landlord must ensure that information published under subsection (2) is, so far as is reasonably practicable, kept up to date.
- (4) The landlord must supply the tenant with—
  - (a) a copy of the information published under subsection (2);
  - (b) a written statement of the terms of the tenancy, so far as they are neither expressed in the lease or written tenancy agreement (if any) nor implied by law.
- (5) The statement required by subsection (4)(b) must be supplied on the grant of the tenancy or as soon as practicable afterwards.]

*[<sup>F2</sup>Supplementary*

*Jurisdiction of county court*

#### **143N Jurisdiction of county court**

- (1) A county court has jurisdiction—
  - (a) to determine questions arising under this Chapter;
  - (b) to entertain proceedings brought under this Chapter;
  - (c) to determine claims (for whatever amount) in connection with a demoted tenancy.
- (2) The jurisdiction includes jurisdiction to entertain proceedings as to whether a statement supplied in pursuance of section 143M(4)(b) (written statement of certain terms of tenancy) is accurate.
- (3) For the purposes of subsection (2) it is immaterial that no relief other than a declaration is sought.
- (4) If a person takes proceedings in the High Court which, by virtue of this section, he could have taken in the county court he is not entitled to recover any costs.
- (5) The Lord Chancellor may make such rules and give such directions as he thinks fit for the purposes of giving effect to this section.
- (6) The rules and directions may provide—
  - (a) for the exercise by a district judge of a county court of any jurisdiction exercisable under this section;
  - (b) for the conduct of proceedings in private.
- (7) The power to make rules must be exercised by statutory instrument subject to annulment in pursuance of a resolution of either House of Parliament.

*Meaning of dwelling house*

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*Status: Point in time view as at 31/05/2005.*

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### **143O Meaning of dwelling house**

- (1) For the purposes of this Chapter a dwelling-house may be a house or a part of a house.
- (2) Land let together with a dwelling-house must be treated for the purposes of this Chapter as part of the dwelling-house unless the land is agricultural land which would not be treated as part of a dwelling-house for the purposes of Part 4 of the Housing Act 1985.

#### *Members of a person's family*

### **143P Members of a person's family**

- (1) For the purposes of this Chapter a person is a member of another's family if—
  - (a) he is the spouse of that person;
  - (b) he and that person live together as a couple in an enduring family relationship, but he does not fall within paragraph (c);
  - (c) he is that person's parent, grandparent, child, grandchild, brother, sister, uncle, aunt, nephew or niece.
- (2) For the purposes of subsection (1)(b) it is immaterial that two persons living together in an enduring family relationship are of the same sex.
- (3) For the purposes of subsection (1)(c)—
  - (a) a relationship by marriage must be treated as a relationship by blood;
  - (b) a relationship of the half-blood must be treated as a relationship of the whole blood;
  - (c) a stepchild of a person must be treated as his child.]

## **CHAPTER II**

### **REPOSSESSION, &C.: SECURE AND ASSURED TENANCIES**

#### *Secure tenancies*

### **144 Extension of ground of nuisance or annoyance to neighbours, &c.**

For Ground 2 in Schedule 2 to the <sup>M11</sup>Housing Act 1985 (nuisance or annoyance to neighbours, &c.) substitute—

#### **Ground 2**

The tenant or a person residing in or visiting the dwelling-house—

- (a) has been guilty of conduct causing or likely to cause a nuisance or annoyance to a person residing, visiting or otherwise engaging in a lawful activity in the locality, or
- (b) has been convicted of—
  - (i) using the dwelling-house or allowing it to be used for immoral or illegal purposes, or
  - (ii) an arrestable offence committed in, or in the locality of, the dwelling-house.”.

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**Modifications etc. (not altering text)**

**C1** S. 144 restricted (14.1.1997) by [S.I. 1997/66](#), [art. 2](#), Sch.

**Marginal Citations**

**M11** [1985 c. 68](#).

**145 New ground of domestic violence: secure tenancies.**

After Ground 2 in Schedule 2 to the <sup>M12</sup>Housing Act 1985 (as substituted by section 144) insert—

**Ground 2A**

The dwelling-house was occupied (whether alone or with others) by a married couple or a couple living together as husband and wife and—

- (a) one or both of the partners is a tenant of the dwelling-house,
- (b) one partner has left because of violence or threats of violence by the other towards—
  - (i) that partner, or
  - (ii) a member of the family of that partner who was residing with that partner immediately before the partner left, and
- (c) the court is satisfied that the partner who has left is unlikely to return.”.

**Modifications etc. (not altering text)**

**C2** S. 145 restricted (14.1.1997) by [S.I. 1997/66](#), [art. 2](#), Sch.

**Marginal Citations**

**M12** [1985 c. 68](#).

**146 Extension of ground that grant of tenancy induced by false statement.**

In Ground 5 in Schedule 2 to the Housing Act 1985 (grant of tenancy induced by false statement) for “by the tenant” substitute “by—

- (a) the tenant, or
- (b) a person acting at the tenant’s instigation”.

**Modifications etc. (not altering text)**

**C3** S. 146 restricted (14.1.1997) by [S.I. 1997/66](#), [art. 2](#), Sch.

**147 Proceedings for possession or termination.**

- (1) For section 83 of the Housing Act 1985 (notice of proceedings for possession or termination) substitute—

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### **“83 Proceedings for possession or termination: notice requirements.**

- (1) The court shall not entertain proceedings for the possession of a dwelling-house let under a secure tenancy or proceedings for the termination of a secure tenancy unless—
  - (a) the landlord has served a notice on the tenant complying with the provisions of this section, or
  - (b) the court considers it just and equitable to dispense with the requirement of such a notice.
- (2) A notice under this section shall—
  - (a) be in a form prescribed by regulations made by the Secretary of State,
  - (b) specify the ground on which the court will be asked to make an order for the possession of the dwelling-house or for the termination of the tenancy, and
  - (c) give particulars of that ground.
- (3) Where the tenancy is a periodic tenancy and the ground or one of the grounds specified in the notice is Ground 2 in Schedule 2 (nuisance or other anti-social behaviour), the notice—
  - (a) shall also—
    - (i) state that proceedings for the possession of the dwelling-house may be begun immediately, and
    - (ii) specify the date sought by the landlord as the date on which the tenant is to give up possession of the dwelling-house, and
  - (b) ceases to be in force twelve months after the date so specified.
- (4) Where the tenancy is a periodic tenancy and Ground 2 in Schedule 2 is not specified in the notice, the notice—
  - (a) shall also specify the date after which proceedings for the possession of the dwelling-house may be begun, and
  - (b) ceases to be in force twelve months after the date so specified.
- (5) The date specified in accordance with subsection (3) or (4) must not be earlier than the date on which the tenancy could, apart from this Part, be brought to an end by notice to quit given by the landlord on the same date as the notice under this section.
- (6) Where a notice under this section is served with respect to a secure tenancy for a term certain, it has effect also with respect to any periodic tenancy arising on the termination of that tenancy by virtue of section 86; and subsections (3) to (5) of this section do not apply to the notice.
- (7) Regulations under this section shall be made by statutory instrument and may make different provision with respect to different cases or descriptions of case, including different provision for different areas.

### **83A Additional requirements in relation to certain proceedings for possession.**

- (1) Where a notice under section 83 has been served on a tenant containing the information mentioned in subsection (3)(a) of that section, the court shall not

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entertain proceedings for the possession of the dwelling-house unless they are begun at a time when the notice is still in force.

(2) Where—

- (a) a notice under section 83 has been served on a tenant, and
- (b) a date after which proceedings may be begun has been specified in the notice in accordance with subsection (4)(a) of that section,

the court shall not entertain proceedings for the possession of the dwelling-house unless they are begun after the date so specified and at a time when the notice is still in force.

(3) Where—

- (a) the ground or one of the grounds specified in a notice under section 83 is Ground 2A in Schedule 2 (domestic violence), and
- (b) the partner who has left the dwelling-house as mentioned in that ground is not a tenant of the dwelling-house,

the court shall not entertain proceedings for the possession of the dwelling-house unless it is satisfied that the landlord has served a copy of the notice on the partner who has left or has taken all reasonable steps to serve a copy of the notice on that partner.

This subsection has effect subject to subsection (5).

(4) Where—

- (a) Ground 2A in Schedule 2 is added to a notice under section 83 with the leave of the court after proceedings for possession are begun, and
- (b) the partner who has left the dwelling-house as mentioned in that ground is not a party to the proceedings,

the court shall not continue to entertain the proceedings unless it is satisfied that the landlord has served a notice under subsection (6) on the partner who has left or has taken all reasonable steps to serve such a notice on that partner.

This subsection has effect subject to subsection (5).

(5) Where subsection (3) or (4) applies and Ground 2 in Schedule 2 (nuisance or other anti-social behaviour) is also specified in the notice under section 83, the court may dispense with the requirements as to service in relation to the partner who has left the dwelling-house if it considers it just and equitable to do so.

(6) A notice under this subsection shall—

- (a) state that proceedings for the possession of the dwelling-house have begun,
- (b) specify the ground or grounds on which possession is being sought, and
- (c) give particulars of the ground or grounds.”.

(2) In section 84 of that Act (grounds and orders for possession), for subsection (3) substitute—

“(3) Where a notice under section 83 has been served on the tenant, the court shall not make such an order on any of those grounds above unless the ground is specified in the notice; but the grounds so specified may be altered or added to with the leave of the court.

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- (4) Where a date is specified in a notice under section 83 in accordance with subsection (3) of that section, the court shall not make an order which requires the tenant to give up possession of the dwelling-house in question before the date so specified.”.
- (3) In Schedule 2 to that Act, in Ground 16, after “notice of the proceedings for possession was served under section 83” insert “ (or, where no such notice was served, the proceedings for possession were begun) ”.

**Modifications etc. (not altering text)**

**C4** S. 147 restricted (14.1.1997) by [S.I. 1997/66](#), [art. 2](#), Sch.

**Commencement Information**

**I4** S. 147 wholly in force 4.2.1997: s. 147 not in force at Royal Assent, see s. 232(1)-(3); s. 147 in force for certain purposes at 1.10.1996 by [S.I. 1996/2402](#), [art. 4](#) and s. 147 in force at 4.2.1997 to the extent it is not already in force by [S.I. 1997/66](#), [art. 2](#)

*Assured tenancies*

**148 Extension of ground of nuisance or annoyance to adjoining occupiers &c.**

For Ground 14 in Schedule 2 to the <sup>M13</sup>Housing Act 1988 (nuisance or annoyance to adjoining occupiers etc.) substitute—

**Ground 14**

The tenant or a person residing in or visiting the dwelling-house—

- (a) has been guilty of conduct causing or likely to cause a nuisance or annoyance to a person residing, visiting or otherwise engaging in a lawful activity in the locality, or
- (b) has been convicted of—
- (i) using the dwelling-house or allowing it to be used for immoral or illegal purposes, or
- (ii) an arrestable offence committed in, or in the locality of, the dwelling-house.”.

**Marginal Citations**

**M13** [1988 c. 50](#).

**149 New ground of domestic violence: assured tenancies.**

After Ground 14 in Schedule 2 to the Housing Act 1988 (as substituted by section 148) insert—

**Ground 14A**

The dwelling-house was occupied (whether alone or with others) by a married couple or a couple living together as husband and wife and—

- (a) one or both of the partners is a tenant of the dwelling-house,

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- (b) the landlord who is seeking possession is a registered social landlord or a charitable housing trust,
- (c) one partner has left the dwelling-house because of violence or threats of violence by the other towards—
  - (i) that partner, or
  - (ii) a member of the family of that partner who was residing with that partner immediately before the partner left, and
- (d) the court is satisfied that the partner who has left is unlikely to return.

For the purposes of this ground “registered social landlord” and “member of the family” have the same meaning as in Part I of the <sup>M14</sup>Housing Act 1996 and “charitable housing trust” means a housing trust, within the meaning of the <sup>M15</sup>Housing Associations Act 1985, which is a charity within the meaning of the Charities Act 1993.”.

#### Commencement Information

**I5** S. 149 wholly in force at 28.2.1997 by S.I. 1997/225, art. 2 (subject to savings in the Sch. to that S.I.)

#### Marginal Citations

**M14** 1985 c. 69.

**M15** 1993 c. 10.

### 150 Additional notice requirements: domestic violence.

After section 8 of the Housing Act 1988 insert—

#### “8A Additional notice requirements: ground of domestic violence.

- (1) Where the ground specified in a notice under section 8 (whether with or without other grounds) is Ground 14A in Schedule 2 to this Act and the partner who has left the dwelling-house as mentioned in that ground is not a tenant of the dwelling-house, the court shall not entertain proceedings for possession of the dwelling-house unless—
  - (a) the landlord or, in the case of joint landlords, at least one of them has served on the partner who has left a copy of the notice or has taken all reasonable steps to serve a copy of the notice on that partner, or
  - (b) the court considers it just and equitable to dispense with such requirements as to service.
- (2) Where Ground 14A in Schedule 2 to this Act is added to a notice under section 8 with the leave of the court after proceedings for possession are begun and the partner who has left the dwelling-house as mentioned in that ground is not a party to the proceedings, the court shall not continue to entertain the proceedings unless—
  - (a) the landlord or, in the case of joint landlords, at least one of them has served a notice under subsection (3) below on the partner who has left or has taken all reasonable steps to serve such a notice on that partner, or
  - (b) the court considers it just and equitable to dispense with the requirement of such a notice.



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- (3) A notice under this subsection shall—
- (a) state that proceedings for the possession of the dwelling-house have begun,
  - (b) specify the ground or grounds on which possession is being sought, and
  - (c) give particulars of the ground or grounds.”.

#### Commencement Information

**I6** S. 150 wholly in force at 28.2.1997 by S.I. 1997/225, art. 2 (subject to savings in the Sch. to that S.I.)

### 151 Early commencement of certain proceedings for possession.

- (1) Section 8 of the <sup>M16</sup>Housing Act 1988 (notice of proceedings for possession) is amended as follows.
- (2) In subsection (1)(a) for the words “subsections (3) and (4)” substitute “ subsections (3) to (4B) ”.
- (3) In subsection (3)(b) for the words from “which,” to “of the notice” substitute “ in accordance with subsections (4) to (4B) below ”.
- (4) For subsection (4) substitute—
- “(4) If a notice under this section specifies in accordance with subsection (3)(a) above Ground 14 in Schedule 2 to this Act (whether with or without other grounds), the date specified in the notice as mentioned in subsection (3)(b) above shall not be earlier than the date of the service of the notice.
- (4A) If a notice under this section specifies in accordance with subsection (3)(a) above, any of Grounds 1, 2, 5 to 7, 9 and 16 in Schedule 2 to this Act (whether without other grounds or with any ground other than Ground 14), the date specified in the notice as mentioned in subsection (3)(b) above shall not be earlier than—
- (a) two months from the date of service of the notice; and
  - (b) if the tenancy is a periodic tenancy, the earliest date on which, apart from section 5(1) above, the tenancy could be brought to an end by a notice to quit given by the landlord on the same date as the date of service of the notice under this section.
- (4B) In any other case, the date specified in the notice as mentioned in subsection (3)(b) above shall not be earlier than the expiry of the period of two weeks from the date of the service of the notice.”.

#### Commencement Information

**I7** S. 151 wholly in force at 28.2.1997 by S.I. 1997/225, art. 2 (subject to savings in the Sch. to that S.I.)

#### Marginal Citations

**M16** 1988 c. 50.

*Status: Point in time view as at 31/05/2005.*

*Changes to legislation: Housing Act 1996, Part V is up to date with all changes known to be in force on or before 18 June 2024. There are changes that may be brought into force at a future date. Changes that have been made appear in the content and are referenced with annotations. (See end of Document for details)*

## CHAPTER III

### INJUNCTIONS AGAINST ANTI-SOCIAL BEHAVIOUR

#### **<sup>F3</sup>152 Power to grant injunctions against anti-social behaviour.**

.....

##### **Textual Amendments**

- F3** S. 152 repealed (30.6.2004 for E., 30.9.2004 for W.) by [Anti-social Behaviour Act 2003 \(c. 38\)](#), ss. 13(2), 93, [Sch. 3](#); S.I. 2004/1502, art. 2(a)(c)(ii)(ii) (with [Sch. para. 1](#)); S.I. 2004/2557, art. 2(a)(i) (with [Sch. para. 1](#))

#### **<sup>F4</sup>153 Power of arrest for breach of other injunctions against anti-social behaviour.**

.....

##### **Textual Amendments**

- F4** S. 153 repealed (30.6.2004 for E., 30.9.2004 for W.) by [Anti-social Behaviour Act 2003 \(c. 38\)](#), ss. 13(2), 93, [Sch. 3](#); S.I. 2004/1502, art. 2(a)(c)(ii)(ii) (with [Sch. para. 1](#)); S.I. 2004/2557, art. 2(a)(i) (with [Sch. para. 1](#))

#### **[<sup>F5</sup>153A Anti-social behaviour injunction**

- (1) This section applies to conduct—
  - (a) which is capable of causing nuisance or annoyance to any person, and
  - (b) which directly or indirectly relates to or affects the housing management functions of a relevant landlord.
- (2) The court on the application of a relevant landlord may grant an injunction (an anti-social behaviour injunction) if each of the following two conditions is satisfied.
- (3) The first condition is that the person against whom the injunction is sought is engaging, has engaged or threatens to engage in conduct to which this section applies.
- (4) The second condition is that the conduct is capable of causing nuisance or annoyance to any of the following—
  - (a) a person with a right (of whatever description) to reside in or occupy housing accommodation owned or managed by the relevant landlord;
  - (b) a person with a right (of whatever description) to reside in or occupy other housing accommodation in the neighbourhood of housing accommodation mentioned in paragraph (a);
  - (c) a person engaged in lawful activity in or in the neighbourhood of housing accommodation mentioned in paragraph (a);
  - (d) a person employed (whether or not by the relevant landlord) in connection with the exercise of the relevant landlord’s housing management functions.
- (5) It is immaterial where conduct to which this section applies occurs.

*Status: Point in time view as at 31/05/2005.*

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- (6) An anti-social behaviour injunction prohibits the person in respect of whom it is granted from engaging in conduct to which this section applies.

#### Textual Amendments

- F5** Ss. 153A-153E inserted (30.6.2004 for E., 30.9.2004 for W.) by [Anti-social Behaviour Act 2003](#) (c. 38), **ss. 13(3)**, 93; S.I. 2004/1502, art. 2(a)(ii); S.I. 2004/2557, art. 2(a)(i) (with Sch. para. 1)

### 153B Injunction against unlawful use of premises

- (1) This section applies to conduct which consists of or involves using or threatening to use housing accommodation owned or managed by a relevant landlord for an unlawful purpose.
- (2) The court on the application of the relevant landlord may grant an injunction prohibiting the person in respect of whom the injunction is granted from engaging in conduct to which this section applies.

#### Textual Amendments

- F5** Ss. 153A-153E inserted (30.6.2004 for E., 30.9.2004 for W.) by [Anti-social Behaviour Act 2003](#) (c. 38), **ss. 13(3)**, 93; S.I. 2004/1502, art. 2(a)(ii); S.I. 2004/2557, art. 2(a)(i) (with Sch. para. 1)

### 153C Injunctions: exclusion order and power of arrest

- (1) This section applies if the court grants an injunction under subsection (2) of section 153A or 153B and it thinks that either of the following paragraphs applies—
- (a) the conduct consists of or includes the use or threatened use of violence;
  - (b) there is a significant risk of harm to a person mentioned in section 153A(4).
- (2) The court may include in the injunction a provision prohibiting the person in respect of whom it is granted from entering or being in—
- (a) any premises specified in the injunction;
  - (b) any area specified in the injunction.
- (3) The court may attach a power of arrest to any provision of the injunction.

#### Textual Amendments

- F5** Ss. 153A-153E inserted (30.6.2004 for E., 30.9.2004 for W.) by [Anti-social Behaviour Act 2003](#) (c. 38), **ss. 13(3)**, 93; S.I. 2004/1502, art. 2(a)(ii); S.I. 2004/2557, art. 2(a)(i) (with Sch. para. 1)

### 153D Injunction against breach of tenancy agreement

- (1) This section applies if a relevant landlord applies for an injunction against a tenant in respect of the breach or anticipated breach of a tenancy agreement on the grounds that the tenant—
- (a) is engaging or threatening to engage in conduct that is capable of causing nuisance or annoyance to any person, or

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- (b) is allowing, inciting or encouraging any other person to engage or threaten to engage in such conduct.
- (2) The court may proceed under subsection (3) or (4) if it is satisfied—
  - (a) that the conduct includes the use or threatened use of violence, or
  - (b) that there is a significant risk of harm to any person.
- (3) The court may include in the injunction a provision prohibiting the person in respect of whom it is granted from entering or being in—
  - (a) any premises specified in the injunction;
  - (b) any area specified in the injunction.
- (4) The court may attach a power of arrest to any provision of the injunction.
- (5) Tenancy agreement includes any agreement for the occupation of residential accommodation owned or managed by a relevant landlord.

#### Textual Amendments

**F5** Ss. 153A-153E inserted (30.6.2004 for E., 30.9.2004 for W.) by [Anti-social Behaviour Act 2003](#) (c. 38), **ss. 13(3), 93**; S.I. 2004/1502, art. 2(a)(ii); S.I. 2004/2557, art. 2(a)(i) (with Sch. para. 1)

### 153E Injunctions: supplementary

- (1) This section applies for the purposes of sections 153A to 153D.
- (2) An injunction may—
  - (a) be made for a specified period or until varied or discharged;
  - (b) have the effect of excluding a person from his normal place of residence.
- (3) An injunction may be varied or discharged by the court on an application by—
  - (a) the person in respect of whom it is made;
  - (b) the relevant landlord.
- (4) If the court thinks it just and convenient it may grant or vary an injunction without the respondent having been given such notice as is otherwise required by rules of court.
- (5) If the court acts under subsection (4) it must give the person against whom the injunction is made an opportunity to make representations in relation to the injunction as soon as it is practicable for him to do so.
- (6) The court is the High Court or a county court.
- (7) Each of the following is a relevant landlord—
  - (a) a housing action trust;
  - (b) a local authority (within the meaning of the Housing Act 1985);
  - (c) a registered social landlord.
- (8) A charitable housing trust which is not a registered social landlord is also a relevant landlord for the purposes of section 153D.
- (9) Housing accommodation includes—
  - (a) flats, lodging-houses and hostels;

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- (b) any yard, garden, outhouses and appurtenances belonging to the accommodation or usually enjoyed with it;
  - (c) in relation to a neighbourhood, the whole of the housing accommodation owned or managed by a relevant landlord in the neighbourhood and any common areas used in connection with the accommodation.
- (10) A landlord owns housing accommodation if either of the following paragraphs applies to him—
- (a) he is a person (other than a mortgagee not in possession) who is for the time being entitled to dispose of the fee simple in the premises, whether in possession or in reversion;
  - (b) he is a person who holds or is entitled to the rents and profits of the premises under a lease which (when granted) was for a term of not less than three years.
- (11) The housing management functions of a relevant landlord include—
- (a) functions conferred by or under any enactment;
  - (b) the powers and duties of the landlord as the holder of an estate or interest in housing accommodation.
- (12) Harm includes serious ill-treatment or abuse (whether physical or not).]

#### Textual Amendments

**F5** Ss. 153A-153E inserted (30.6.2004 for E., 30.9.2004 for W.) by [Anti-social Behaviour Act 2003](#) (c. 38), **ss. 13(3)**, 93; S.I. 2004/1502, art. 2(a)(ii); S.I. 2004/2557, art. 2(a)(i) (with Sch. para. 1)

#### 154 Powers of arrest: ex-parte applications for injunctions.

- (1) In determining whether to exercise its power under [<sup>F6</sup>section 153C(3) or 153D(4)] to attach a power of arrest to an injunction which it intends to grant on an ex-parte application, the High Court or a county court shall have regard to all the circumstances including—
- (a) whether it is likely that the applicant will be deterred or prevented from seeking the exercise of the power if the power is not exercised immediately, and
  - (b) whether there is reason to believe that the respondent is aware of the proceedings for the injunction but is deliberately evading service and that the applicant or any person of a description mentioned in [<sup>F7</sup>section 153A(4)] (as the case may be) will be seriously prejudiced if the decision as to whether to exercise the power were delayed until substituted service is effected.
- (2) Where the court exercises its power as mentioned in subsection (1), it shall afford the respondent an opportunity to make representations relating to the exercise of the power as soon as just and convenient at a hearing of which notice has been given to all the parties in accordance with rules of court.

#### Textual Amendments

**F6** Words in s. 154(1) substituted (30.6.2004 for E., 30.9.2004 for W.) by [Anti-social Behaviour Act 2003](#) (c. 38), **ss. 13(4)(a)**, 93; S.I. 2004/1502, art. 2(a)(ii); S.I. 2004/2557, art. 2(a)(i) (with Sch. para. 1)

*Status: Point in time view as at 31/05/2005.*

*Changes to legislation: Housing Act 1996, Part V is up to date with all changes known to be in force on or before 18 June 2024. There are changes that may be brought into force at a future date. Changes that have been made appear in the content and are referenced with annotations. (See end of Document for details)*

- F7** Words in s. 154(1)(b) substituted (30.6.2004 for E., 30.9.2004 for W.) by [Anti-social Behaviour Act 2003 \(c. 38\), ss. 13\(4\)\(b\), 93; S.I. 2004/1502, art. 2\(a\)\(ii\); S.I. 2004/2557, art. 2\(a\)\(i\) \(with Sch. para. 1\)](#)

## 155 Arrest and remand.

- (1) If a power of arrest is attached to certain provisions of an injunction by virtue of [<sup>F8</sup>section 153C(3) or 153D(4)], a constable may arrest without warrant a person whom he has reasonable cause for suspecting to be in breach of any such provision or otherwise in contempt of court in relation to a breach of any such provision.

A constable shall after making any such arrest forthwith inform the person on whose application the injunction was granted.

- (2) Where a person is arrested under subsection (1)—
- (a) he shall be brought before the relevant judge within the period of 24 hours beginning at the time of his arrest, and
  - (b) if the matter is not then disposed of forthwith, the judge may remand him.

In reckoning for the purposes of this subsection any period of 24 hours no account shall be taken of Christmas Day, Good Friday or any Sunday.

- (3) If the court has granted an injunction in circumstances such that a power of arrest could have been attached under [<sup>F9</sup>section 153C(3) or 153D(4)] but—
- (a) has not attached a power of arrest under the section in question to any provisions of the injunction, or
  - (b) has attached that power only to certain provisions of the injunction,
- then, if at any time the applicant considers that the respondent has failed to comply with the injunction, he may apply to the relevant judge for the issue of a warrant for the arrest of the respondent.

- (4) The relevant judge shall not issue a warrant on an application under subsection (3) unless—
- (a) the application is substantiated on oath, and
  - (b) he has reasonable grounds for believing that the respondent has failed to comply with the injunction.

- (5) If a person is brought before a court by virtue of a warrant issued under subsection (4) and the court does not dispose of the matter forthwith, the court may remand him.

- (6) Schedule 15 (which makes provision corresponding to that applying in magistrates' courts in civil cases under sections 128 and 129 of the <sup>M17</sup>Magistrates' Courts Act 1980) applies in relation to the powers of the High Court and a county court to remand a person under this section.

- (7) If a person remanded under this section is granted bail by virtue of subsection (6), he may be required by the relevant judge to comply, before release on bail or later, with such requirements as appear to the judge to be necessary to secure that he does not interfere with witnesses or otherwise obstruct the course of justice.

*Status: Point in time view as at 31/05/2005.*

*Changes to legislation: Housing Act 1996, Part V is up to date with all changes known to be in force on or before 18 June 2024. There are changes that may be brought into force at a future date. Changes that have been made appear in the content and are referenced with annotations. (See end of Document for details)*

#### Textual Amendments

- F8** Words in s. 155(1) substituted (30.6.2004 for E., 30.9.2004 for W.) by [Anti-social Behaviour Act 2003 \(c. 38\)](#), [ss. 13\(5\)\(a\)](#), 93; [S.I. 2004/1502](#), [art. 2\(a\)\(ii\)](#); [S.I. 2004/2557](#), [art. 2\(a\)\(i\)](#) (with [Sch. para. 1](#))
- F9** Words in s. 155(3) substituted (30.6.2004 for E., 30.9.2004 for W.) by [Anti-social Behaviour Act 2003 \(c. 38\)](#), [ss. 13\(5\)\(b\)](#), 93; [S.I. 2004/1502](#), [art. 2\(a\)\(ii\)](#); [S.I. 2004/2557](#), [art. 2\(a\)\(i\)](#) (with [Sch. para. 1](#))

#### Commencement Information

- I8** S. 155 wholly in force at 15.10.2001; s. 155 not in force at Royal Assent see s. 232(1)-(3); s. 155(1)(2) (except for (2)(b)) in force at 1.9.1997 by [S.I. 1997/1851](#), [art. 2](#); s. 155 in force insofar as not already in force at 15.10.2001 by [S.I. 2001/3164](#), [art. 2](#)

#### Marginal Citations

- M17** [1980 c. 43](#).

### 156 Remand for medical examination and report.

- (1) If the relevant judge has reason to consider that a medical report will be required, any power to remand a person under section 155 may be exercised for the purpose of enabling a medical examination and report to be made.
- (2) If such a power is so exercised the adjournment shall not be for more than 4 weeks at a time unless the judge remands the accused in custody.
- (3) If the judge so remands the accused, the adjournment shall not be for more than 3 weeks at a time.
- (4) If there is reason to suspect that a person who has been arrested—
  - (a) under section 155(1), or
  - (b) under a warrant issued under section 155(4),is suffering from mental illness or severe mental impairment, the relevant judge shall have the same power to make an order under section 35 of the <sup>M18</sup>Mental Health Act 1983 (remand for report on accused's mental condition) as the Crown Court has under section 35 of that Act in the case of an accused person within the meaning of that section.

#### Marginal Citations

- M18** [1983 c. 20](#).

### 157 Powers of arrest: supplementary provisions.

- (1) If in exercise of its power under [<sup>F10</sup>section 153C(3) or 153D(4)] the High Court or a county court attaches a power of arrest to any provisions of an injunction, it may provide that the power of arrest is to have effect for a shorter period than the other provisions of the injunction.
- (2) Any period specified for the purposes of subsection (1) may be extended by the court (on one or more occasions) on an application to vary or discharge the injunction.

*Status: Point in time view as at 31/05/2005.*

*Changes to legislation: Housing Act 1996, Part V is up to date with all changes known to be in force on or before 18 June 2024. There are changes that may be brought into force at a future date. Changes that have been made appear in the content and are referenced with annotations. (See end of Document for details)*

- (3) If a power of arrest has been attached to certain provisions of an injunction by virtue of <sup>F11</sup>section 153C(3) or 153D(4)], the court may vary or discharge the injunction in so far as it confers a power of arrest (whether or not any application has been made to vary or discharge any other provision of the injunction).
- (4) An injunction may be varied or discharged under subsection (3) on an application by the respondent or the person on whose application the injunction was made.

#### Textual Amendments

- F10** Words in s. 157(1) substituted (30.6.2004 for E., 30.9.2004 for W.) by [Anti-social Behaviour Act 2003 \(c. 38\)](#), **ss. 13(6)(a)**, 93; S.I. 2004/1502, art. 2(a)(ii); S.I. 2004/2557, art. 2(a)(i) (with Sch. para. 1)
- F11** Words in s. 157(3) substituted (30.6.2004 for E., 30.9.2004 for W.) by [Anti-social Behaviour Act 2003 \(c. 38\)](#), **ss. 13(6)(b)**, 93; S.I. 2004/1502, art. 2(a)(ii); S.I. 2004/2557, art. 2(a)(i) (with Sch. para. 1)

### 158 Interpretation: Chapter III.

- (1) For the purposes of this Chapter—

“charitable housing trust” means a housing trust, within the meaning of the <sup>M19</sup>Housing Associations Act 1985, which is a charity within the meaning of the <sup>M20</sup>Charities Act 1993;

<sup>F12</sup>  
 ...  
<sup>F12</sup>  
 ...  
<sup>F12</sup>  
 ...  
<sup>F12</sup>  
 ...

“relevant judge”, in relation to an injunction, means—

- (a) where the injunction was granted by the High Court, a judge of that court,  
 (b) where the injunction was granted by a county court, a judge or district judge of that or any other county court;

“tenancy” includes a licence, and “tenant” and “landlord” shall be construed accordingly.

<sup>F13</sup>(2) .....

#### Textual Amendments

- F12** S. 158(1) entries repealed (30.6.2004 for E., 30.9.2004 for W.) by [Anti-social Behaviour Act 2003 \(c. 38\)](#), **ss. 13(7)(a)**, 93, **Sch. 3**; S.I. 2004/1502, art. 2(a)(c)(ii)(ii) (with Sch. para. 1); S.I. 2004/2557, art. 2(a)(i) (with Sch. para. 1)
- F13** S. 158(2) repealed (30.6.2004 for E., 30.9.2004 for W.) by [Anti-social Behaviour Act 2003 \(c. 38\)](#), **ss. 13(7)(b)**, 93, **Sch. 3**; S.I. 2004/1502, art. 2(a)(c)(ii)(ii) (with Sch. para. 1); S.I. 2004/2557, art. 2(a)(i) (with Sch. para. 1)

#### Marginal Citations

- M19** 1985 c. 69.  
**M20** 1993 c. 10.



**Status:**

Point in time view as at 31/05/2005.

**Changes to legislation:**

Housing Act 1996, Part V is up to date with all changes known to be in force on or before 18 June 2024. There are changes that may be brought into force at a future date. Changes that have been made appear in the content and are referenced with annotations.