



# Tribunals, Courts and Enforcement Act 2007

## 2007 CHAPTER 15

### PART 3

#### ENFORCEMENT BY TAKING CONTROL OF GOODS

#### CHAPTER 2

#### RENT ARREARS RECOVERY

#### *Right to rent from sub-tenant*

#### **81 Right to rent from sub-tenant**

- (1) This section applies where CRAR is exercisable by a landlord to recover rent due and payable from a tenant (the immediate tenant).
- (2) The landlord may serve a notice on any sub-tenant.
- (3) The notice must state the amount of rent that the landlord has the right to recover from the immediate tenant by CRAR (the “notified amount”).
- (4) When it takes effect the notice transfers to the landlord the right to recover, receive and give a discharge for any rent payable by the sub-tenant under the sub-lease, until—
  - (a) the notified amount has been paid (by payments under the notice or otherwise),  
or
  - (b) the notice is replaced or withdrawn.
- (5) A notice under this section takes effect at the end of a period to be determined by regulations.
- (6) Regulations may state—

*Status: Point in time view as at 19/09/2013. This version of this cross heading contains provisions that are not valid for this point in time.*

**Changes to legislation:** Tribunals, Courts and Enforcement Act 2007, Cross Heading: Right to rent from sub-tenant is up to date with all changes known to be in force on or before 19 July 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)

- (a) the form of a notice under this section;
  - (b) what it must contain;
  - (c) how it must be served;
  - (d) what must be done to withdraw it.
- (7) In determining for the purposes of this section whether CRAR is exercisable, section 77 applies with these modifications—
- (a) if notice of enforcement has not been given, references to that notice are to be read as references to the notice under this section;
  - (b) if goods have not been taken control of, section 77(3)(b) does not apply.
- (8) In this section and sections 82 to 84—
- (a) “sub-tenant” means a tenant (below the immediate tenant) of any of the premises comprised in the headlease (and “sub-lease” is to be read accordingly);
  - (b) “headlease” means the lease between the landlord and the immediate tenant.

#### Commencement Information

- II** S. 81(5)(6) in force at 15.7.2013 for specified purposes by S.I. 2013/1739, art. 3(f)

VALID FROM 06/04/2014

#### **82 Off-setting payments under a notice**

- (1) For any amount that a sub-tenant pays under a notice under section 81, he may deduct an equal amount from the rent that would be due to his immediate landlord under the sub-lease.
- (2) If an amount is deducted under subsection (1) or this subsection from rent due to a superior sub-tenant, that sub-tenant may deduct an equal amount from any rent due from him under his sub-lease.
- (3) Subsection (1) applies even if the sub-tenant's payment or part of it is not due under the notice, if it is not due because—
  - (a) the notified amount has already been paid (wholly or partly otherwise than under the notice), or
  - (b) the notice has been replaced by a notice served on another sub-tenant.
- (4) That is subject to the following.
- (5) Subsection (1) does not apply if the landlord withdraws the notice before the payment is made.
- (6) Where the notified amount has already been paid (or will be exceeded by the payment), subsection (1) does not apply (or does not apply to the excess) if the sub-tenant has notice of that when making the payment.
- (7) Subsection (1) does not apply if, before the payment is made, payments under the notice at least equal the notified amount.

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- (8) Subsection (1) does not apply to a part of the payment if, with the rest of the payment, payments under the notice at least equal the notified amount.
- (9) Where the notice has been replaced by one served on another sub-tenant, subsection (1) does not apply if the sub-tenant has notice of that when making the payment.

VALID FROM 06/04/2014

### **83 Withdrawal and replacement of notices**

- (1) A notice under section 81 is replaced if the landlord serves another notice on the same sub-tenant for a notified amount covering the same rent or part of that rent.
- (2) A notice under section 81 served on one sub-tenant is also replaced if—
  - (a) the landlord serves a notice on another sub-tenant for a notified amount covering the same rent or part of that rent, and
  - (b) in relation to any of the premises comprised in the first sub-tenant's sub-lease, the second sub-tenant is an inferior or superior sub-tenant.
- (3) The landlord must withdraw a notice under section 81 if any of these happens—
  - (a) the notice is replaced;
  - (b) the notified amount is paid, unless it is paid wholly by the sub-tenant.

VALID FROM 06/04/2014

### **84 Recovery of sums due and overpayments**

- (1) For the purposes of the recovery of sums payable by a sub-tenant under a notice under section 81 (including recovery by CRAR), the sub-tenant is to be treated as the immediate tenant of the landlord, and the sums are to be treated as rent accordingly.
- (2) But those sums (as opposed to rent due from the immediate tenant) are not recoverable by notice under section 81 served on an inferior sub-tenant.
- (3) Any payment received by the landlord that the sub-tenant purports to make under a notice under section 81, and that is not due under the notice for any reason, is to be treated as a payment of rent by the immediate tenant, for the purposes of the retention of the payment by the landlord and (if no rent is due) for the purposes of any claim by the immediate tenant to recover the payment.
- (4) But subsection (3) does not affect any claim by the sub-tenant against the immediate tenant.

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