

Status: Point in time view as at 01/07/2013.

Changes to legislation: Leasehold Reform Act 1967, SCHEDULE 2 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)

SCHEDULES

SCHEDULE 2

Sections 17, 18, 20, 21, 23 and 25.

PROVISIONS SUPPLEMENTARY TO SECTIONS 17 AND 18 OF THIS ACT

- 1 (1) This Schedule has effect where a tenant of a house and premises is entitled to be paid compensation under section 17 or 18 of this Act, or would be so entitled on the landlord obtaining an order for possession, or where an application for such an order is dismissed or withdrawn; and for purposes of this Schedule—
 - (a) “application for possession” means a landlord’s application under section 17(1) or 18(1); and
 - (b) “order for possession” means an order under section 17(2) or 18(4).
- (2) Where the tenancy has not been extended under section 14 of this Act, references in this Schedule to the original term date shall be construed as references to the term date or, in a case where before the relevant time the landlord had given notice to quit terminating the tenancy at a date earlier than the term date, as references to the date specified in the notice to quit.
- 2 (1) Where an order for possession is made, the tenancy shall determine, and the compensation payable to the tenant by virtue of the order shall become payable, on such date as may, when the amount of that compensation is known, be fixed by order of the court made on the application either of the landlord or of the tenant.
- (2) An order of the court under this paragraph shall not fix a date earlier than the original term date of the tenancy, nor shall it fix a date less than four months or more than twelve months after the date of the order unless the court sees special reason for doing so; and in a case under section 18 of this Act an application to [^{F1}the appropriate tribunal] to determine the amount of the compensation payable to the tenant shall not be made more than twelve months before the original term date.
- (3) In fixing the date the court shall have regard to the conduct of the parties and, in a case under section 17 of this Act, to the extent to which the landlord has made reasonable preparations for proceeding with the redevelopment (including the obtaining of or preparations relating to the obtaining of any requisite permission or consent, whether from any authority whose permission or consent is required under any enactment or from the owner of an interest in any property).
- (4) The court may by order direct that the whole or part of the compensation payable to the tenant shall be paid into court, if the court thinks it expedient so to do for the purpose of ensuring that the sum paid is available for meeting charges on the tenant’s interest in the house and premises, or for the purpose of division, or for any other purpose.

Textual Amendments

- F1** Words in Sch. 2 para. 2(2) substituted (1.7.2013) by [The Transfer of Tribunal Functions Order 2013 \(S.I. 2013/1036\)](#), art. 1, [Sch. 1 para. 11](#) (with Sch. 3)

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- 3
- (1) On the termination of a tenancy under an order for possession there shall terminate also any immediate or derivative sub-tenancy, and the tenant shall be bound to give up possession of the house and premises to the landlord except in so far as he is precluded from doing so by the rights of other persons to retain possession under or by virtue of any enactment.
 - (2) Where a sub-tenancy of property comprised in the tenancy has been created after the date of the application for possession (or any earlier date when, in the case of an application relying on section 28(1) of this Act, a copy of the Minister's certificate was served on the tenant), then no person shall in respect of that sub-tenancy be entitled under [^{F2}[^{F3}subsection (2) of section 137 of the ^{M1}Rent Act 1977], or any enactment (including [^{F4}subsection (5)] of that section)] applying or extending it, [^{F5}or under subsection (2) of section 9 of the ^{M2}Rent (Agriculture) Act 1976 as extended by subsection (5) of that section] to retain possession of that property after the termination of the tenancy under the order for possession.
 - (3) In exercising its jurisdiction under section 17 or 18 of this Act or this Schedule the court shall assume that the landlord, having obtained an order for possession, will not be precluded from obtaining possession by the right of any person to retain possession by virtue of [^{F6}[^{F7}Part VII of the ^{M3}Rent Act 1977] or any enactment applying or extending that Part of that Act][^{F8}or of the ^{M4}Rent (Agriculture) Act 1976] or otherwise.
 - (4) A person in occupation of the house and premises or part of them under a sub-tenancy liable to terminate under sub-paragraph (1) above may, with the leave of the court, appear and be heard on any application for possession or application under paragraph 2 above.

Textual Amendments

- F2** Words substituted by Rent Act 1968 (c. 23), **Sch. 15**; continued by Rent Act 1977 (c. 42), **Sch. 24 para. 30**
- F3** Words substituted by Rent Act 1977 (c. 42), s. 155(2), **Sch. 23 para. 45**
- F4** Words substituted by Rent (Agriculture) Act 1976 (c. 80), **Sch. 8 para. 18 (a)**
- F5** Words inserted by Rent (Agriculture) Act 1976 (c. 80), **Sch. 8 para. 18 (a)**
- F6** Words substituted by Rent Act 1968 (c. 23), **Sch. 15**; continued by Rent Act 1977 (c. 42), **Sch. 24 para. 30**
- F7** Words substituted by Rent Act 1977 (c. 42), s. 155(2), **Sch. 23 para. 45**
- F8** Words inserted by Rent (Agriculture) Act 1976 (c. 80), **Sch. 8 para. 18 (b)**

Marginal Citations

- M1** 1977 c. 42.
- M2** 1976 c. 80.
- M3** 1977 c. 42.
- M4** 1976 c. 80.

- 4
- Where an order has been made under paragraph 2 above, the court making the order or another county court shall have jurisdiction to hear and determine any proceedings brought by virtue of the order to recover possession of the property or to recover the compensation, notwithstanding that by reason of the value of the property or the amount of the compensation the proceedings are not within the jurisdiction conferred on county courts apart from this provision.
- 5
- (1) The amount payable to a tenant, by virtue of an order for possession, by way of compensation for the loss of the house and premises shall be the amount which, if

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sections 17 and 18 of this Act had not been passed, the house and premises, if sold in the open market by a willing seller, might at the date when the order for possession becomes final be expected to realise, on the assumption that the vendor was selling the tenancy, and was selling—

- (a) subject to the rights of any person who will on the termination of the tenancy be entitled to retain possession as against the landlord, but otherwise with vacant possession; and
- (b) subject to any subsisting incumbrances which will not terminate with the tenancy and for which during the continuance of the tenancy the tenant is liable without having a right to be indemnified by the landlord, but otherwise free of incumbrances; and
- (c) subject to any restriction which would be required (in addition to any imposed by the terms of the tenancy) to limit the uses of the house and premises to those to which they have been put since the commencement of the tenancy and to preclude the erection of any new dwelling-house or any other building not ancillary to the house as a dwelling-house;

but there shall be left out of account any value attaching to the right to acquire the freehold under Part I of this Act.

- (2) The compensation payable in respect of a tenancy which has not been extended under section 14 of this Act shall be computed as if the tenancy was to be so extended.
- 6
- (1) Part I of the ^{M5}Landlord and Tenant Act 1927 (compensation for improvements on termination of business tenancies) shall not apply on the termination of the tenancy or any sub-tenancy in accordance with this Schedule; and a request for a new tenancy under section 26 of the ^{M6}Landlord and Tenant Act 1954 in respect of the tenancy or any sub-tenancy shall be of no effect if made after the application for possession, or shall cease to have effect on the making of that application.
 - (2) Where a sub-tenancy terminating with the tenancy in accordance with paragraph 3 above is one to which Part II of the ^{M7}Landlord and Tenant Act 1954 applies, the compensation payable to the tenant shall be divided between him and the sub-tenant in such proportions as may be just, regard being had to their respective interests in the house and premises and to any loss arising from the termination of those interests and not incurred by imprudence.
 - (3) Where the amount of the compensation payable to the tenant is agreed between him and the landlord without the consent of a sub-tenant entitled under sub-paragraph (2) above to a share in the compensation, and is shown by the sub-tenant to be less than might reasonably have been obtained by the tenant, the sub-tenant shall be entitled under sub-paragraph (2) above to recover from the tenant such increased share as may be just.

Marginal Citations

- M5** 1927 c. 36.
M6 1954 c. 56.
M7 1954 c. 56.

- 7
- (1) The landlord shall not be concerned with the application of the amount payable to the tenant by way of compensation under an order for possession, but (subject to any statutory requirements as to payment of capital money arising under a settlement or

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[^{F9}trust of land] and to any order under paragraph 2(4) above for payment into court) the written receipt of the tenant shall be a complete discharge for the amount payable.

- (2) The landlord shall be entitled to deduct from the amount so payable to the tenant—
 - (a) the amount of any sum payable by way of rent or recoverable as rent in respect of the house and premises up to the termination of the tenancy; and
 - (b) the amount of any other sums due and payable by the tenant to the landlord under or in respect of the tenancy or any agreement collateral thereto.
- (3) Where the tenancy is [^{F10}subject to a trust of land], and compensation is paid in respect of it in accordance with section 17 or 18 of this Act (whether possession is obtained under that section or without any application for possession), the sum received shall be dealt with as if it were proceeds of sale arising under the trust.

Textual Amendments

F9 Words in Sch. 2 para. 7(1) substituted (1.1.1997) by 1996 c. 47, s. 25(1), Sch. 3 para. 10(c)(i) (with ss. 24(2), 25(4)(5)); S.I. 1996/2974, art. 2

F10 Words in Sch. 2 para. 7(3) substituted (1.1.1997) by 1996 c. 47, s. 25(1), Sch. 3 para. 10(c)(ii) (with ss. 24(2), 25(4)(5)); S.I. 1996/2974, art. 2

- 8 (1) Where a landlord makes an application for possession, and it is made to appear to the court that in relation to matters arising out of that application (including the giving up of possession of the house and premises or the payment of compensation) the landlord or the tenant has been guilty of any unreasonable delay or default, the court may—
 - (a) by order revoke or vary, and direct repayment of sums paid under, any provision made by a previous order as to payment of the costs of proceedings taken in the court on or with reference to the application, or, where costs have not been awarded, award costs;
 - (b) certify particulars of the delay or default to the [^{F11}Upper Tribunal] with a view to enabling the Tribunal to exercise a like discretion in relation to costs of proceedings before the Tribunal.

[^{F12}(1A) Where the court certifies particulars of delay or default to the [^{F13}Upper Tribunal] under sub-paragraph (1)(b) above, the [^{F13}Upper Tribunal] may make any order as to costs of proceedings before the [^{F13}Upper Tribunal] which the court may make in relation to proceedings in the court.]

(2) ^{F14}

- (3) Where an application for possession is dismissed or withdrawn, and it is made to appear to the court—
 - (a) that the application was not made in good faith; or
 - (b) that the landlord had attempted in any material respect to support by misrepresentation or the concealment of material facts a request to the tenant to deliver up possession without an application for possession;

the court may order that no further application for possession of the house and premises made by the landlord shall be entertained if it is made within the five years beginning with the date of the order.

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Textual Amendments

- F11** Words in Sch. 2 para. 8(1)(b) substituted (1.6.2009) by [The Transfer of Tribunal Functions \(Lands Tribunal and Miscellaneous Amendments\) Order 2009 \(S.I. 2009/1307\)](#), art. 1, **Sch. 1 para. 86** (with Sch. 5)
- F12** Sch. 2 para. 8(1A) inserted (30.9.2003 for E., 30.3.2004 for W.) by [Commonhold and Leasehold Reform Act 2002 \(c. 15\)](#), s. 181(1), **Sch. 13 para. 6**; S.I. 2003/1986, art. 2(c)(i) (with Sch. 2); S.I. 2004/669, art. 2(c)(i) (with Sch. 2)
- F13** Words in Sch. 2 para. 8(1A) substituted (1.6.2009) by [The Transfer of Tribunal Functions \(Lands Tribunal and Miscellaneous Amendments\) Order 2009 \(S.I. 2009/1307\)](#), art. 1, **Sch. 1 para. 86** (with Sch. 5)
- F14** Sch. 2 para. 8(2) repealed by [Housing Act 1980 \(c. 51\)](#), **Sch. 26**

- 9 (1) The purposes authorised for the application of capital money by section 73 of the ^{M8}Settled Land Act 1925 ^{F15}. . . and the purposes authorised by section 71 of the Settled Land Act 1925 ^{F15}. . . as purposes for which moneys may be raised by mortgage, shall include the payment of compensation in accordance with section 17 or 18 of this Act (whether possession is obtained under that section or without any application for possession).
- (2) The purposes authorised for the application of capital money by section 26 of the ^{M9}Universities and College Estates Act 1925, and the purposes authorised by section 31 of that Act as purposes for which moneys may be raised by mortgage, shall include the payment of compensation in accordance with section 17 of this Act (whether possession is obtained under that section or without any application for possession).

Textual Amendments

- F15** Words in Sch. 2 para. 9(1) repealed (1.1.1997) by [1996 c. 47](#), s. 25(2), **Sch. 4** (with ss. 24(2), 25(4)(5)); S.I. 1996/2974, art. 2

Marginal Citations

- M8** 1925 c. 18.
M9 1925 c. 24.

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