



Housing Act 1980

1980 CHAPTER 51

PART I

PUBLIC SECTOR TENANTS

CHAPTER II

SECURITY OF TENURE AND RIGHTS OF SECURE TENANTS

Secure tenancies

28 Secure tenancies

- (1) A tenancy under which a dwelling-house is let as a separate dwelling is a secure tenancy at any time when the conditions described below as the landlord condition and the tenant condition are satisfied, but subject to the exceptions in Schedule 3 to this Act and to subsection (5) below and sections 37 and 49 of this Act.
- (2) The landlord condition is that—
 - (a) the interest of the landlord belongs to one of the bodies mentioned in subsection (4) below; or
 - (b) the interest of the landlord belongs to a housing association falling within subsection (3) of section 15 of the 1977 Act; or
 - (c) the interest of the landlord belongs to a housing co-operative and the dwelling-house is comprised in a housing co-operative agreement; or
 - (d) the interest of the landlord belongs to a county council and the tenancy was granted by it in the exercise of the reserve powers conferred on county councils by section 194 of the Local Government Act 1972.
- (3) The tenant condition is that the tenant is an individual and occupies the dwelling-house as his only or principal home; or, where the tenancy is a joint tenancy, that each of the joint tenants is an individual and at least one of them occupies the dwelling-house as his only or principal home.

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- (4) The bodies referred to in subsection (2) (a) above are—
- (a) a local authority;
 - (b) the Commission for the New Towns;
 - (c) a development corporation;
 - (d) the Housing Corporation;
 - (e) a housing trust which is a charity within the meaning of the Charities Act 1960 ; and
 - (f) the Development Board for Rural Wales.
- (5) Where a secure tenancy is a tenancy for a term certain and the tenant dies, the tenancy remains a secure tenancy until either—
- (a) the tenancy is vested or otherwise disposed of in the course of the administration of the tenant's estate; or
 - (b) it is known that when the tenancy has been so vested or disposed of it will not be a secure tenancy.

29 Periodic tenancy following fixed term

- (1) Where a secure tenancy (in this section referred to as II " the first tenancy ") is a tenancy for a term certain and comes to an end by effluxion of time or by an order under section 32(2) below, a periodic tenancy of the same dwelling-house arises by virtue of this section, unless the tenant is granted another secure tenancy of the same dwelling-house (whether a tenancy for a term certain or a periodic tenancy) to begin on the coming to an end of the first tenancy.
- (2) Where a periodic tenancy arises by virtue of this section—
- (a) the periods of that tenancy are the same as those for which rent was last payable under the first tenancy; and
 - (b) the parties and the terms of the tenancy are the same as those of the first tenancy at the end of it;
- except that the terms are confined to those which are compatible with a periodic tenancy and do not include any provision for re-entry or forfeiture.

30 Succession on death of tenant

- (1) Where a secure tenancy is a periodic tenancy and, on the death of the tenant, there is a person qualified to succeed him, the tenancy vests by virtue of this section in that person or, if there is more than one such person, in the one who is to be preferred in accordance with subsection (3) below, unless the tenant was a successor.
- (2) A person is qualified to succeed the tenant under a secure tenancy if he occupied 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.
- (3) Where there is more than one person qualified to succeed the tenant—
- (a) the tenant's spouse is to be preferred to another member of the tenant's family ; and

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- (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.

31 Meaning of successor

- (1) Where a secure tenancy is a periodic tenancy the tenant is a successor if—
 - (a) the tenancy vested in him by virtue of section 30 above; or
 - (b) he was a joint tenant and has become the sole tenant; or
 - (c) the tenancy arose by virtue of section 29 above and the first tenancy there mentioned was granted to another person or jointly to him and another person ; or
 - (d) he became the tenant on the tenancy being assigned to him or on its being vested in him on the death of the previous tenant;

but a tenant to whom the tenancy was assigned in pursuance of an order under section 24 of the Matrimonial Causes Act 1973 is a successor only if the other party to the marriage was himself a successor.

- (2) Where within six months of the coming to an end of a secure tenancy which is a periodic tenancy (in this subsection referred to as the former tenancy) the tenant becomes a tenant under another secure tenancy which is a periodic 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 is or both are the same as under the former tenancy;

the tenant is a successor also in relation to the other tenancy, unless the agreement creating the other tenancy otherwise provides.

32 Security of tenure

- (1) A secure tenancy which is either—
 - (a) a weekly or other periodic tenancy; or
 - (b) a tenancy for a term certain but subject to termination by the landlord;cannot be brought to an end by the landlord except by obtaining an order of the court for the possession of the dwelling-house or an order under subsection (2) below; and where the landlord obtains an order for the possession of the dwelling-house the tenancy ends on the date on which the tenant is to give up possession in pursuance of the order.
- (2) Where a secure tenancy is a tenancy for a term certain but with a provision for re-entry or forfeiture, the court shall not order possession of the dwelling-house in pursuance of that provision; but in any case where, but for this section, the court would have made such an order it shall instead make an order terminating the secure tenancy on a date specified in the order.
- (3) Section 146 of the Law of Property Act 1925 (restriction on and relief against forfeiture), except subsection (4) (vesting in under-lessee), and any other enactment or rule of law relating to forfeiture shall apply in relation to proceedings for an order under subsection (2) above as if they were proceedings to enforce a right of re-entry or forfeiture.

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33 Proceedings for possession or termination

- (1) The court shall not entertain proceedings for the possession of a dwelling-house let under a secure tenancy or for the termination of a secure tenancy, unless the landlord has served on the tenant a notice complying with the provisions of this section and, if the tenancy is a periodic tenancy—
 - (a) the proceedings are begun after the date specified in the notice; and
 - (b) the notice is still in force at the time the proceedings are begun.
- (2) A notice under this section must be in a form prescribed by regulations made by the Secretary of State and must 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 give particulars of that ground.
- (3) If the secure tenancy is a periodic tenancy the notice
 - (a) must also specify a 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 specified in it;and the date specified in it must not be earlier than the date on which the tenancy could, apart from this Act, be brought to an end by notice to quit given by the landlord if the notice to quit were given on the same date as the notice under this section.
- (4) 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 by virtue of section 29 above on the termination of that tenancy, and paragraphs (a) and (b) of subsection (1) and subsection (3) above do not apply to the notice.

34 Grounds and orders for possession

- (1) The court shall not make an order for the possession of a dwelling-house let under a secure tenancy except on one or more of the grounds set out in Part I of Schedule 4 to this Act and shall not make such an order on any of those grounds unless the ground is specified in the notice in pursuance of which proceedings for possession are begun; but the grounds so specified may be altered or added to with the leave of the court.
- (2) The court shall not make the order—
 - (a) on any of grounds 1 to 6, unless the condition in subsection (3)(a) below is satisfied ;
 - (b) on any of grounds 7 to 9, unless the condition in subsection (3)(b) below is satisfied ; and
 - (c) on any of grounds 10 to 13, unless both those conditions are satisfied.
- (3) The conditions are—
 - (a) that the court considers it reasonable to make the order; and
 - (b) that the court is satisfied that suitable accommodation will be available for the tenant when the order takes effect.
- (4) Part II of Schedule 4 has effect for determining whether suitable accommodation will be available for a tenant.