



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 "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.

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Terms of a secure tenancy

35 Subletting and lodgers

- (1) It is by virtue of this section a term of every secure tenancy that the tenant may allow any persons to reside as lodgers in the dwelling-house.
- (2) It is by virtue of this section a term of every secure tenancy that the tenant will not, without the written consent of the landlord, sublet or part with the possession of part of the dwelling-house.
- (3) The consent required by virtue of this section is not to be unreasonably withheld and, if unreasonably withheld, shall be treated as given.
- (4) Section 113(5) of the 1957 Act shall cease to have effect.

36 Provisions as to consents required by section 35

- (1) If any question arises whether the withholding of a consent was unreasonable it is for the landlord to show that it was not; and in determining that question the following matters, if shown by the landlord, are among those to be taken into account, namely—
 - (a) that the consent would lead to overcrowding of the dwelling-house (as determined for the purposes of the 1957 Act); and
 - (b) that the landlord proposes to carry out works on the dwelling-house or on the building of which it forms part and that the proposed works will affect the accommodation likely to be used by the sub-tenant who would reside in the dwelling-house as a result of the consent.
- (2) A consent may be validly given notwithstanding that it follows, instead of preceding, the action requiring it.
- (3) A consent cannot be given subject to a condition, and if purporting to be given subject to a condition shall be treated as given unconditionally.
- (4) Where the tenant has applied in writing for a consent then—
 - (a) if the landlord refuses to give the consent it shall give to the tenant a written statement of the reasons why the consent was refused ; and
 - (b) if the landlord neither gives nor refuses to give the consent within a reasonable time the consent shall be taken to have been withheld.
- (5) In this section a " consent" means a consent which is required by virtue of section 35 above.

37 Effect of assignment or subletting, etc.

- (1) If a secure tenancy is assigned it ceases to be a secure tenancy, unless—
 - (a) the assignment is made in pursuance of an order under section 24 of the Matrimonial Causes Act 1973 ; or
 - (b) the assignment is to a person in whom the tenancy would or might have vested by virtue of section 30 above had the tenant died immediately before the assignment, or in whom it would or might have so vested had the tenancy been a periodic tenancy;

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and similarly where, on the death of the tenant, a secure tenancy is vested or otherwise disposed of in the course of the administration of his estate.

- (2) If the tenant under a secure tenancy parts with the possession of the dwelling-house or sublets the whole of it (or sublets first part of it and then the remainder) the tenancy ceases to be a secure tenancy.
- (3) Where
- (a) a tenancy ceases to be a secure tenancy by virtue of this section; or
 - (b) at a time when a tenancy is not a secure tenancy the tenancy is assigned or the tenant parts with the possession of the dwelling-house or sublets the whole of it (or sublets first part of it and then the remainder);
- the tenancy cannot become a secure tenancy.

38 Reimbursement of cost of tenant's improvements

- (1) This section applies where a secure tenant has made an improvement and—
- (a) the landlord, or a predecessor in title of the landlord, has given its written consent to the improvement or is treated as having given its consent; and
 - (b) work on the improvement was begun not earlier than the commencement of this Chapter; and
 - (c) the improvement has materially added to the price which the dwelling-house may be expected to fetch if sold on the open market or the rent which the landlord may be expected to be able to charge on letting the dwelling-house.
- (2) Where this section applies, the landlord shall (in addition to any other power to make such payments) have power to make, at or after the end of the tenancy, such payment to the tenant (or his personal representatives) in respect of the improvement as the landlord considers to be appropriate.
- (3) The amount which a landlord may pay under subsection (2) above in respect of an improvement must not exceed the cost, or likely cost, of the improvement after deducting the amount of any grant in respect of that improvement under Part VII of the 1974 Act.

39 Rent not to be increased on account of tenant's improvements

Where a person who is or was the secure tenant of a dwelling-house has lawfully made an improvement and has borne or would, but for a grant under Part VII of the 1974 Act, have borne, the whole or part of its cost, then in determining—

- (a) at any time whilst he is a secure tenant of that dwelling house ; or
- (b) if he has died and on his death the tenancy vested in his spouse under section 30, at any time whilst his spouse is a secure tenant of that dwelling-house;

whether or to what extent to increase the rent, the landlord shall treat the improvement as justifying only such part of any increase which would otherwise be attributable to the improvement as corresponds to the part of the cost which neither has nor would have been so borne (and accordingly as not justifying any increase if the whole of the cost has or would have been so borne).

This section does not apply to any increase attributable to rates.

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40 Variation of terms of secure tenancy

- (1) The terms of a secure tenancy may be varied in accordance with the provisions of this section but not otherwise.
- (2) This section does not apply to any term of a tenancy which is implied by any enactment (including this Act) or to such a term of a housing association tenancy as may be varied under section 93 of the 1977 Act (increase of rent without notice to quit).
- (3) The variation may be effected—
 - (a) by agreement between the landlord and the tenant; or
 - (b) to the extent only that it relates to rent or to payments in respect of rates or services, by the landlord or the tenant in accordance with any provision in the lease or agreement creating the tenancy or in any agreement varying it.
- (4) If the tenancy is a periodic tenancy the variation may also be effected by the landlord by a notice of variation served on the tenant.
- (5) A notice of variation must specify the variation effected by it and the date on which it takes effect; and the period between the date on which it is served and the date on which it takes effect must not be shorter than the rental period of the tenancy nor shorter than 4 weeks.
- (6) Before serving a notice of variation on the tenant the landlord shall—
 - (a) serve on him a preliminary notice informing him of the landlord's intention to serve a notice of variation, specifying the variation proposed to be effected and its effect and inviting him to comment on the proposed variation within such time, to be specified in the notice, as the landlord considers reasonable ; and
 - (b) consider any comment made by the tenant within the time specified in the preliminary notice ;and when the notice of variation is served it must be accompanied by such information as the landlord considers necessary to inform the tenant of the nature and effect of the variation.
- (7) Subsection (6) above does not apply to a variation—
 - (a) of the rent or of payments in respect of services or facilities provided by the landlord ; or
 - (b) of payments in respect of rates.
- (8) Where a notice of variation is served on the tenant and the tenant, before the date specified in it, gives a valid notice to quit, the notice of variation does not take effect unless the tenant, with the written agreement of the landlord, withdraws his notice to quit before that date.
- (9) References in this section to variation include addition and deletion; and for the purposes of this section the conversion of a monthly tenancy into a weekly, or a weekly into a monthly, tenancy is a variation of a term of the tenancy, but a variation of the premises let under a tenancy is not.
- (10) This section applies in relation to the terms of a periodic tenancy arising by virtue of section 29 of this Act as it would have applied to the terms of the first tenancy mentioned in that section had that tenancy been a periodic tenancy.

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41 Provision of information about tenancies

- (1) Every body which lets dwelling-houses under secure tenancies shall, within two years of the commencement of this Chapter and thereafter from time to time, publish information about its secure tenancies in such form as it considers best suited to explain in simple terms and so far as it considers appropriate, the effect of—
 - (a) the express terms of its secure tenancies;
 - (b) the provisions of this Part, and Part III of this Act;
 - (c) the provisions of sections 32 and 33 of the Housing Act 1961.
- (2) Every such body shall ensure that, so far as is reasonably practicable, the information published under subsection (1) above is kept up to date.
- (3) The landlord under a secure tenancy shall supply the tenant—
 - (a) with a copy of the information for secure tenants published by it under subsection (1) above; and
 - (b) with 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.
- (4) The statement required by subsection (3)(b) above shall be supplied—
 - (a) if the tenancy is granted after the commencement of this Chapter, on the grant of the tenancy or as soon as practicable afterwards; and
 - (b) if the tenancy was granted before the commencement of this Chapter, within two years of that commencement.

Housing management

42 Meaning of " landlord authority " and " housing management "

- (1) In this Chapter " landlord authority " means—
 - (a) a local authority ;
 - (b) subject to section 49 of this Act, a housing association which falls within section 15(3) of the 1977 Act;
 - (c) a housing trust which is a charity within the meaning of the Charities Act 1960 ;
 - (d) a development corporation ; or
 - (e) the Development Board for Rural Wales ;

but neither the Development Board for Rural Wales nor a development corporation is a landlord authority for the purposes of this Chapter if an exemption certificate has been issued to it by the Secretary of State under section 45 of this Act.
- (2) A matter is one of housing management for the purposes of this Chapter if, in the opinion of the landlord authority concerned, it—
 - (a) relates to the management, maintenance, improvement or demolition of dwelling-houses let by the authority under secure tenancies, or to the provision of services or amenities in connection with such dwelling-houses; and
 - (b) represents a new programme of maintenance, improvement or demolition or a change in the practice or policy of the authority ; and
 - (c) is likely substantially to affect its secure tenants as a whole or a group of them.

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- (3) A matter is not one of housing management for the purposes of this Chapter in so far as it relates to the rent payable under any secure tenancy or to any charge for services or facilities provided by the landlord authority concerned.
- (4) In this section " group " means a group of secure tenants who—
 - (a) form a distinct social group; or
 - (b) occupy dwelling-houses which constitute a distinct class (whether by reference to the kind of dwelling-house concerned or the housing estate or other larger area in which they are situated).
- (5) In the case of a landlord authority which is a local authority, the reference in subsection (2)(a) above to the provision of services or amenities is to be taken as referring only to the provision of services or amenities by the authority acting in its capacity as landlord of the dwelling-houses concerned.

43 Consultation with secure tenants

- (1) Every landlord authority shall, within 12 months of the commencement of this Chapter, make and thereafter maintain such arrangements as it considers appropriate to enable those of its secure tenants who are likely to be substantially affected by a matter of housing management—
 - (a) to be informed of the authority's proposals in respect of that matter; and
 - (b) to make their views known to the authority within a specified period.
- (2) It shall be the duty of a landlord authority, before making any decision on a matter of housing management, to consider any representation made to it in accordance with arrangements made by the authority under this section.
- (3) Every landlord authority shall publish details of the arrangements which it makes under this section and a copy of any document published under this subsection shall—
 - (a) be made available at the authority's principal office for inspection at all reasonable hours, without charge, by members of the public; and
 - (b) be furnished, on payment of a reasonable fee, to any member of the public who asks for one.
- (4) A landlord authority which is a housing association falling within section 15(3)(a) of the 1977 Act (registered with Housing Corporation) shall, instead of complying with paragraph (a) of subsection (3) above, send a copy of any document published under that subsection—
 - (a) to the Housing Corporation; and
 - (b) to the council of any district or London borough in which there are dwelling-houses let by the association under secure tenancies.
- (5) Where a copy of any document is sent to the council of a district or London borough under subsection (4) above, the council shall make it available at its principal office for inspection at all reasonable hours, without charge, by members of the public.

44 Provision of information about housing allocation

- (1) Every landlord authority shall publish a summary of its rules—
 - (a) for determining priority as between applicants in the allocation of its housing accommodation; and

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- (b) governing cases where secure tenants wish to move (whether or not by way of an exchange of dwelling-houses) to other dwelling-houses let under secure tenancies by that landlord authority or by any other body.
- (2) Every landlord authority shall—
 - (a) maintain a set of those rules and of the rules which it has laid down governing the procedure to be followed in allocating its housing accommodation ; and
 - (b) subject to subsection (3) below, make them available at its principal office for inspection at all reasonable hours without charge by members of the public.
- (3) A landlord authority which is a housing association falling within section 15(3)(a) of the 1977 Act (registered with Housing Corporation) shall, instead of complying with subsection (2)(b) above, send a set of the rules mentioned in subsection (2)(a) above—
 - (a) to the Housing Corporation ; and
 - (b) to the council of any district or London borough in which there are dwelling-houses let or to be let by the association under secure tenancies.
- (4) Where a copy of any set of rules maintained under subsection (2) above is sent to the council of a district or London borough under subsection (3) above, the council shall make it available at its principal office for inspection at all reasonable hours, without charge, by members of the public.
- (5) A copy of any summary published under subsection (1) above shall be furnished without charge, and a copy of any set of rules maintained under subsection (2) above shall be furnished on payment of a reasonable fee, to any member of the public who asks for one.
- (6) At the request of any person who has applied to it for housing accommodation, a landlord authority shall make available to him, at all reasonable times and without charge, details of the particulars which he has given to the authority about himself and his family and which the authority has recorded as being relevant to his application for accommodation.

45 Exemption certificates

- (1) On an application duly made by the Development Board for Rural Wales or by a development corporation, the Secretary of State may issue an exemption certificate to the applicant if—
 - (a) he is satisfied that it has transferred, or otherwise disposed of, at least three-quarters of the dwellings which have at any time before the making of the application been vested in it; or
 - (b) he has, before the commencement of this Chapter, given directions to it under section 3(1) of the New Towns (Amendment) Act 1976 for the transfer of dwellings vested in it and is satisfied that when the transfer of those dwellings is completed it will have transferred, or otherwise disposed of, at least three-quarters of the dwellings which have at any time before that date been vested in it.
- (2) An application under this section shall be in such form and shall be accompanied by such information as the Secretary of State may, either generally or in relation to a particular case, direct.

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46 Contributions towards the cost of transfers and exchanges

- (1) The Secretary of State may with the consent of the Treasury make out of moneys provided by Parliament grants or loans towards the cost of arrangements for facilitating moves to and from homes by which—
 - (a) a secure tenant becomes, at his request, the secure tenant of a different landlord ; or
 - (b) each of two or more tenants of dwelling-houses, one at least of which is let under a secure tenancy, becomes the tenant of the other or of one of the others.
- (2) The grants or loans may be made subject to such conditions as the Secretary of State may determine, and may be made so as to be repayable or, as the case may be, repayable earlier, if there is a breach of such a condition.

Application to existing tenancies

47 Application to existing tenancies

This Chapter applies to tenancies granted before as well as tenancies granted after the commencement of this Chapter.

Application to licences

48 Application to licences

- (1) Where a person who is not the tenant of a dwelling-house has a licence (whether or not granted for a consideration) to occupy the dwelling-house and the circumstances are such that, if the licence were a tenancy, it would be a secure tenancy, then, subject to subsection (2) below, this Part of this Act applies to the licence as it applies to a secure tenancy and, as so applying, has effect as if expressions appropriate to a licence were substituted for " landlord " , " tenant " , " tenancy " and " secure tenancy " .
- (2) Subsection (1) above does not apply to a licence which was 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 another licence to occupy that or another dwelling-house had been granted to him).

Housing associations

49 Exclusion of certain housing associations from Chapter II

- (1) In this section—
 - " registered association " means a housing association which falls within paragraph (a) of section 15(3) of the 1977 Act (associations registered with the Housing Corporation); and
 - " registered society " means a housing association which falls within paragraph (d) of section 15(3) (certain associations registered under the Industrial and Provident Societies Act 1965).
- (2) A tenancy is not a secure tenancy at any time when the interest of the landlord belongs to a housing association which is both a registered association and a registered society.

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- (3) Sections 35 to 46 of this Act do not apply to a tenancy at any time when the interest of the landlord belongs to a housing association which is a registered society.
- (4) If a housing association which is a registered society has been a registered association but at any time after the commencement of this Chapter has ceased to be such an association it shall notify those of its tenants who thereby become secure tenants that they have become secure tenants.
- (5) Notice under subsection (4) above shall be given in writing to each tenant concerned, within the period of 21 days beginning with the date on which the association ceased to be a registered association.

Supplementary

50 Interpretation of Chapter II

- (1) In this Chapter—
 - " development corporation" means a development corporation established by an order made, or having effect as if made, under the New Towns Act 1965 ;
 - "housing co-operative" has the meaning given by paragraph 1 of Schedule 20 to this Act;
 - " housing co-operative agreement" means an agreement to which Schedule 20 applies;
 - "housing trust" has the same meaning as in section 15 of the 1977 Act;
 - " improvement" has the meaning given by section 81 ;
 - "landlord authority" has the meaning given by section 42(1);
 - " local authority" means the council of a district, the Greater London Council, the council of a London borough, the Common Council of the City of London or the Council of the Isles of Scilly ;
 - " rental period " means a period in respect of which a payment of rent falls to be made;
 - "successor" has the meaning given by section 31; and
 - " term ", in relation to a secure tenancy, includes a condition of the tenancy.
- (2) For the purposes of this Chapter—
 - (a) a dwelling-house may be a house or part of a house;
 - (b) land let together with a dwelling-house shall be treated as part of the dwelling-house unless the land is agricultural land exceeding two acres ;

and in this subsection " agricultural land " has the meaning set out in section 26(3)(a) of the General Rate Act 1967.
- (3) A person is a member of another's family within the meaning of this Chapter if he is his spouse, parent, grandparent, child, grandchild, brother, sister, uncle, aunt, nephew or niece; treating—
 - (a) any relationship by marriage as a relationship by blood, any relationship of the half blood as a relationship of the whole blood and the stepchild of any person as his child; and
 - (b) an illegitimate person as the legitimate child of his mother and reputed father; or if they live together as husband and wife.