



Housing Act 1980

1980 CHAPTER 51

PART II

PRIVATE SECTOR TENANTS

Miscellaneous

73 Dwellings forming part of Crown Estate or belonging to Duchies

- (1) The following section is substituted for section 13 of the 1977 Act :
- (1) Except as provided by subsection (2) below—
- (a) a tenancy shall not be a protected tenancy at any time when the interest of the landlord under the tenancy belongs to Her Majesty in right of the Crown or to a government department or is held in trust for Her Majesty for the purposes of a government department; and
- (b) a person shall not at any time be a statutory tenant of a dwelling-house if the interest of his immediate landlord would at that time belong or be held as mentioned in paragraph (a) above.
- (2) An interest belonging to Her Majesty in right of the Crown shall not prevent a tenancy from being a protected tenancy or a person from being a statutory tenant if the interest is under the management of the Crown Estate Commissioners.”.
- (2) In subsection (5) of section 19 of the 1977 Act the words (in paragraph (b)) "or of the Duchy of Lancaster or to the Duchy of Cornwall " are omitted and at the end of the subsection there are inserted the words " except that an interest belonging to Her Majesty in right of the Crown does not prevent a contract from being a restricted contract if the interest is under the management of the Crown Estate Commissioners ".
- (3) In section 5 of the Rent (Agriculture) Act 1976 the following is substituted for subsection (1) :

Status: This is the original version (as it was originally enacted).

“(1) person shall not at any time be a statutory tenant of a dwelling-house if the interest of his immediate landlord would, at that time—

- (a) belong to Her Majesty in right of the Crown or to a government department, or
- (b) be held in trust for Her Majesty for the purposes of a government department;

except that an interest belonging to Her Majesty in right of the Crown shall not prevent a person from being a statutory tenant if the interest is under the management of the Crown Estate Commissioners.”.

(4) In the Landlord and Tenant Act 1954—

- (a) the following is inserted at the end of section 56 :

“(7) Part I of this Act shall apply where—

- (a) there is an interest belonging to Her Majesty in right of the Crown and that interest is under the management of the Crown Estate Commissioners; or
- (b) there is an interest belonging to Her Majesty in right of the Duchy of Lancaster or belonging to the Duchy of Cornwall;

as if it were an interest not so belonging.”;

- (b) in section 21(6) the following is substituted for the definition of " interest not bound by this Part of this Act " :

“In this subsection ' interest not bound by this Part of this Act' means an interest which belongs to Her Majesty in right of the Crown and is not under the management of the Crown Estate Commissioners or an interest belonging to a government department or held on behalf of Her Majesty for the purposes of a government department.”.

(5) Schedule 8 to this Act has effect for making certain provisions consequential on this section.

74 Housing association and housing trust tenancies under Rent Act 1977

(1) In section 15 of the 1977 Act (tenancies not protected when landlord's interest belongs to housing association or housing trust etc.) subsection (4), and in subsection (1) the words " in respect of which any of the conditions specified in subsection (4) below is fulfilled ", are hereby repealed.

(2) For subsection (5) of section 15 there is substituted the following subsection—

“(5) In subsection (2) above ' housing trust' means a corporation or body of persons which—

- (a) is required by the terms of its constituent instrument to use the whole of its funds, including any surplus which may arise from its operations, for the purpose of providing housing accommodation; or
- (b) is required by the terms of its constituent instrument to devote the whole, or substantially the whole, of its funds to charitable purposes and in fact uses the whole, or substantially the whole, of its funds for the purpose of providing housing accommodation.”.

(3) Schedule 9 to this Act has effect for the purpose of supplementing this section.

75 Proceedings for possession of certain dwelling-houses

(1) Section 100 of the 1977 Act (which gives the court an extended discretion in actions for possession of certain dwelling-houses) is amended as follows.

(2) For subsection (3) there is substituted the following subsection—

“(3) On any such adjournment as is referred to in subsection (1) above or any such stay, suspension or postponement as is referred to in subsection (2) above, the court shall, unless it considers that to do so would cause exceptional hardship to the tenant or would otherwise be unreasonable, impose conditions with regard to payment by the tenant of arrears of rent (if any) and rent or payments in respect of occupation after termination of the tenancy (mesne profits) and may impose such other conditions as it thinks fit.”.

(3) After subsection (4) there are inserted the following subsections—

“(4A) Subsection (4B) below applies in any case where—

- (a) proceedings are brought for possession of a dwelling-house which is let on a protected tenancy or subject to a statutory tenancy;
- (b) the tenant's spouse or former spouse, having rights of occupation under the Matrimonial Homes Act 1967, is then in occupation of the dwelling-house ; and
- (c) the tenancy is terminated as a result of those proceedings.

(4B) In any case to which this subsection applies, the spouse or former spouse shall, so long as he or she remains in occupation, have the same rights in relation to, or in connection with, any such adjournment as is referred to in subsection (1) above or any such stay, suspension or postponement as is referred to in subsection (2) above, as he or she would have if those rights of occupation were not affected by the termination of the tenancy.”.

(4) Section 7 of the Rent (Agriculture) Act 1976 (which corresponds to section 100 of the 1977 Act) is amended as follows.

(5) After subsection (2) there is inserted the following subsection—

“(2A) In those cases the court may adjourn for such period or periods as it thinks fit”.

(6) For subsection (4) there is substituted the following subsection—

“(4) On any such adjournment as is referred to in subsection (2A) above or any such stay, suspension or postponement as is referred to in subsection (3) above, the court shall, unless it considers that to do so would cause exceptional hardship to the tenant or would otherwise be unreasonable, impose conditions with regard to payment by the tenant of arrears of rent (if any) and rent or payments in respect of occupation after termination of the tenancy (mesne profits) and may impose such other conditions as it thinks fit.”.

(7) After subsection (5) there are inserted the following subsections—

“(5A) Subsection (5B) below applies in any case where

- (a) proceedings are brought for possession of a dwelling-house which is subject to a protected occupancy or statutory tenancy;

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- (b) the tenant's spouse or former spouse, having rights of occupation under the Matrimonial Homes Act 1967, is then in occupation of the dwelling-house; and
- (c) the tenancy is terminated as a result of those proceedings.

(5B) In any case to which this subsection applies, the spouse or former spouse shall, so long as he or she remains in occupation, have the same rights in relation to or in connection with any such adjournment as is referred to in subsection (2A) above or any such stay, suspension or postponement as is referred to in subsection (3) above as he or she would have if those rights of occupation were not affected by the termination of the tenancy.”.

76 Statutory tenancies by succession

- (1) In Schedule 1 to the 1977 Act, for paragraph 2 (under which on the death of the original tenant under a protected or statutory tenancy his widow if residing with him at his death becomes a statutory tenant by succession) there is substituted the following paragraph—

“2 The surviving spouse (if any) of the original tenant, if residing in the dwelling-house immediately before the death of the original tenant, shall after the death be the statutory tenant if and so long as he or she occupies the dwelling-house as his or her residence.”.

- (2) For paragraph 6 of that Schedule (similar provision in relation to death of first successor) there is substituted the following paragraph—

“6 The surviving spouse (if any) of the first successor, if residing in the dwelling-house immediately before the death of the first successor, shall after the death be the statutory tenant if and so long as he or she occupies the dwelling-house as his or her residence.”.

- (3) In sections 3(2) and (3)(a) and 4(3) and (4)(a) of the Rent (Agriculture) Act 1976 (which correspond to provisions in Schedule 1 to the 1977 Act) for the words " with him at his death " there shall be substituted in each case, the words " in the dwelling-house immediately before his death ".

- (4) The amendments made by this section have effect only in relation to deaths occurring after the commencement of the subsection concerned.

77 Amendment of Part VI of Rent Act 1977

Part VI of the 1977 Act (rent limit for dwellings let by housing associations, housing trusts and the Housing Corporation) is amended in accordance with the provisions of Schedule 10 to this Act.

78 Allowable premiums in relation to certain long tenancies

- (1) Section 127 of the 1977 Act shall have effect and be deemed always to have had effect as if for paragraph (c) of subsection (2) there were substituted the paragraph set out in subsection (2) below and at the end of subsection (5) there were added the words set out in subsection (3) below.

- (2) The substituted paragraph is—

Status: This is the original version (as it was originally enacted).

- “(c) that the terms of the tenancy do not inhibit both the assignment and the underletting of the whole of the premises comprised in the tenancy”.
- (3) The added words are " and for the purposes of subsections (2)(c) and (3B)(d) above the terms of a tenancy inhibit an assignment or underletting if they—
- (a) preclude it; or
 - (b) permit it subject to a consent but exclude section 144 of the Law of Property Act 1925 (no payment in nature of fine); or
 - (c) permit it subject to a consent but require in connection with a request for consent the making of an offer to surrender the tenancy."
- (4) After subsection (3) of section 127 there are inserted the following subsections—
- “(3A) If the conditions in subsection (3B) below are satisfied in respect of a tenancy, this Part of this Act shall not apply to that tenancy and, together with Part VII of the Rent Act 1968 and the enactments replaced by Part VII, shall be deemed never to have applied to it.
- (3B) The conditions are that—
- (a) the tenancy was granted before 16th July 1980;
 - (b) a premium was lawfully required and paid on the grant of the tenancy ;
 - (c) the tenancy was, at the time when it was granted, a tenancy at a low rent; and
 - (d) the terms of the tenancy do not inhibit both the assignment and the underletting of the whole of the premises comprised in the tenancy.
- (3C) If the conditions in subsection (3D) below are satisfied in respect of a tenancy, this section shall have effect, in relation to that tenancy, as if for the words " 20 years " and " 21 years ", in subsections (2)(b) and (3) above there were substituted, respectively, the words " 6 years " and " 7 years ".
- (3D) The conditions are that—
- (a) the tenancy is granted after 15th July 1980 ;
 - (b) at the time when it is granted it is a tenancy at a low rent; and
 - (c) the terms of the tenancy ensure that any variation of the sums payable by the tenant otherwise than in respect of rates, services, repairs or maintenance, cannot lead to those sums exceeding an annual rate of two-thirds of the rateable value of the dwelling-house at the date when the variation is made.

For the purposes of this subsection the rateable value of a dwelling-house shall be ascertained in accordance with section 25 of this Act (disregarding subsection (4)) by reference to the value shown in the valuation list at the date when the variation is made.”.

79 Meaning of " premium " in Part IX of Rent Act 1977

In section 128 of the 1977 Act (interpretation of Part IX, which prohibits premiums etc.) for the definition of " premium", in subsection (1), there is substituted the following definition—

- “‘ premium' includes—
- (a) any fine or other like sum;
 - (b) any other pecuniary consideration in addition to rent; and

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- (c) any sum paid by way of a deposit, other than one which does not exceed one-sixth of the annual rent and is reasonable in relation to the potential liability in respect of which it is paid.”