



Housing and Planning Act 1986

1986 CHAPTER 63

PART I

HOUSING

Assured tenancies

12 Extension of assured tenancies scheme to cases where works have been carried out

(1) In section 56(1) of the Housing Act 1980 (tenancies which are assured tenancies), for paragraphs (a) and (b) substitute—

- “(a) the conditions described in section 56A or 56B are satisfied,
- (b) the interest of the landlord has, since the creation of the tenancy, belonged to an approved body, and
- (c) the tenancy would, when created, have been a protected tenancy or, as the case may be, a housing association tenancy but for this section.”.

(2) After that section insert—

“56A Conditions for assured tenancy: newly erected buildings.

The first set of conditions referred to in section 56(1)(a) above is that—

- (a) the dwelling-house is, or forms part of, a building which was erected (and on which construction work first began) on or after 8th August 1980, and
- (b) before the tenant first occupied the dwelling house under the tenancy, no part of it had been occupied by any person as his residence except under an assured tenancy.

56B Conditions for assured tenancy: buildings to which works have been carried out.

- (1) The second set of conditions referred to in section 56(1)(a) above is that—
- (a) qualifying works have been carried out (whether before or after the commencement of this section),
 - (b) the dwelling-house is (or was) fit for human habitation at the relevant date, and
 - (c) since the qualifying works were carried out no part of the dwelling-house has been occupied by any person as his residence except under an assured tenancy,
- and, in the case of the first relevant tenancy, that the person (or persons) to whom the tenancy is granted is not (or do not include) a person who was a secure occupier of the dwelling-house before the works were carried out.
- (2) Qualifying works means works involving expenditure attributable to the dwelling-house of not less than the prescribed amount which are carried out within the period of two years preceding the relevant date at a time when the premises constituting the dwelling-house at the relevant date either were not a dwelling-house or no part of them was occupied by a person as his residence.
- (3) Expenditure is attributable to a dwelling-house if it is incurred on works carried out to the premises constituting the dwelling-house at the relevant date or to other land or buildings let with the dwelling-house under the first relevant tenancy.
- (4) Where the dwelling-house is a flat, there is also attributable to the dwelling-house a proportion of any expenditure incurred on works carried out to the structure, exterior or common parts of, or to common facilities in, the building of which the dwelling-house forms part.
- (5) The proportion so attributable shall be taken to be the amount produced by dividing the total amount of such expenditure by the number of units of occupation in the building at the relevant date.
- (6) In this section—
- 'flat' means a separate set of premises, whether or not on the same floor, which—
 - (a) forms part of a building, and
 - (b) is divided horizontally from some other part of the building;
 - 'the first relevant tenancy' means the first tenancy after the carrying out of the qualifying works under which a person is entitled to occupy the dwelling-house as his residence;
 - 'the prescribed amount' means the amount which at the relevant date is prescribed for the purposes of this section by order of the Secretary of State;
 - 'the relevant date' means the date of grant of the first relevant tenancy;
 - 'secure occupier' means a person who, whether alone or jointly with others, occupied or was entitled to occupy the dwelling-house as—

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- (a) a protected or statutory tenant within the meaning of the Rent Act 1977,
- (b) a secure tenant within the meaning of Part IV of the Housing Act 1985, or
- (c) a protected occupier or statutory tenant within the meaning of the Rent (Agriculture) Act 1976.

56C Certification of fitness for purposes of s. 56B.

- (1) An approved body having an interest in a dwelling-house which it proposes to let on an assured tenancy may—
 - (a) apply in writing to the local housing authority for a certificate that the dwelling-house is fit for human habitation, or
 - (b) submit to the local housing authority a list of works which it proposes to carry out to the dwelling-house with a request in writing for the authority's opinion whether the dwelling-house would, after the execution of the works, be fit for human habitation;and the authority shall as soon as may be after receiving the application or request, and upon payment of such reasonable fee as they may determine, take the matter into consideration.
- (2) If the authority are of opinion that the dwelling-house is fit for human habitation, they shall give the approved body a certificate to that effect.
- (3) If the authority are of opinion that the dwelling-house will be fit for human habitation after the execution of the proposed works, they shall inform the approved body that they are of that opinion.
- (4) In any other case, the authority shall give the approved body a list of the works which in their opinion are required to make the dwelling-house fit for human habitation.
- (5) Where the authority have responded in accordance with subsection (3) or (4) and the works in question have been executed to their satisfaction, they shall, if the approved body applies in writing, and upon payment of such reasonable fee as the authority may determine, give the body a certificate that the dwelling-house is fit for human habitation.
- (6) For the purpose of determining whether the condition in section 56B(1)(b) was satisfied in any case (fitness of dwelling-house on relevant date), but not for any other purpose, a certificate given under this section is conclusive evidence that the dwelling-house was fit for human habitation on the date on which the certificate was given.
- (7) In this section 'the local housing authority' has the same meaning as in the Housing Act 1985.

56D Fitness for human habitation.

In determining for any of the purposes of section 56B or 56C whether a dwelling-house is, or would be, fit for human habitation, regard shall be had to its condition in respect of the following matters—

repair,

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stability,
 freedom from damp,
 internal arrangement,
 natural lighting,
 ventilation,
 water supply,
 drainage and sanitary conveniences,
 facilities for the preparation and cooking of food and the disposal of waste water;

and the dwelling-house shall be deemed to be unfit only if it is, or would be, so far defective in one or more of those matters as to be not reasonably suitable for occupation in that condition.”.

- (3) In section 57 of the Housing Act 1980 (effect of interest of landlord ceasing to belong to approved body), in subsections (1) and (2) for " section 56(3)(a) " substitute " section 56(1)(b) ".

13 Other amendments relating to assured tenancies

- (1) In section 19(5) of the Rent Act 1977 (contracts which are not restricted contracts), after paragraph (e) insert—

“, or

- (f) it creates an assured tenancy within the meaning of section 56 of the Housing Act 1980 ;”.

- (2) In Schedule 15 to the Rent Act 1977 (grounds for possession), in Part IV (definition of suitable alternative accommodation), renumber paragraph 4 as sub-paragraph (1) of that paragraph and after it insert—

“(2) For the purposes of sub-paragraph (1)(b) the terms of a tenancy shall not be treated as affording the required security by reason only of the fact that the tenancy is an assured tenancy within the meaning of section 56 of the Housing Act 1980.”.

- (3) In Schedule 4 to the Rent (Agriculture) Act 1976 (grounds for possession), in Case I (alternative accommodation not provided or arranged by housing authority), renumber paragraph 2 as sub-paragraph (1) of that paragraph and after it insert—

“(2) For the purposes of sub-paragraph (1)(b) the terms of a tenancy shall not be treated as affording the required security by reason only of the fact that the tenancy is an assured tenancy within the meaning of section 56 of the Housing Act 1980.”.

- (4) In section 37 of the Landlord and Tenant Act 1954 (compensation where an order for new tenancy precluded on certain grounds), in subsection (2) (computation of compensation) as set out in paragraph 7 of Schedule 5 to the Housing Act 1980 (application of 1954 Act to assured tenancies), after " be " insert " the product of the appropriate multiplier and ".

The above amendment applies notwithstanding that the application to the court under section 24 of the Landlord and Tenant Act 1954 was made before the commencement

of this section, unless the application has been finally disposed of within the meaning of section 64(2) of that Act before commencement. "

- (5) In section 58 of the Housing Act 1980 (application of Landlord and Tenant Act 1954 to assured tenancies), at the end add—

“(3) In sections 56 to 58 of this Act 'tenancy' has the same meaning as in the Landlord and Tenant Act 1954 and references to the granting of a tenancy shall be construed accordingly.”.

- (7) In Schedule 5 to the Housing Act 1980 (application of Landlord and Tenant Act 1954 to assured tenancies), for paragraph 8 (modification of provisions relating to contracting out) substitute—

“8 Section 38 applies as if the following provisions were omitted—

- (a) in subsection (1), the words " (except as provided by subsection (4) of this section) " ;
- (b) in subsection (2), the words from the beginning to the end of paragraph (b);
- (c) subsections (3) and (4).”

The above amendment, so far as it relates to section 38(4) of the Landlord and Tenant Act 1954, does not apply to an agreement both approved by the court under that provision and entered into before the commencement of this section.