



# Housing Act 1988

## 1988 CHAPTER 50

### PART I

#### RENTED ACCOMMODATION

### CHAPTER VI

#### GENERAL PROVISIONS

#### **40 Jurisdiction of county courts.**

- (1) A county court shall have jurisdiction to hear and determine any question arising under any provision of—
  - (a) Chapters I to III and V above, or
  - (b) sections 27 and 28 above,other than a question falling within the jurisdiction of [<sup>F1</sup>the appropriate tribunal] by virtue of any such provision.
- <sup>F2</sup>(2) .....
- (3) Where any proceedings under any provision mentioned in subsection (1) above are being taken in a county court, the court shall have jurisdiction to hear and determine any other proceedings joined with those proceedings, notwithstanding that, apart from this subsection, those other proceedings would be outside the court's jurisdiction.
- <sup>F3</sup>(4) If any person takes any proceedings under any provision mentioned in subsection (1) above in the High Court, he shall not be entitled to recover any more costs of those proceedings than those to which he would have been entitled if the proceedings had been taken in a county court: and in such a case the taxing master shall have the same power of directing on what county court scale costs are to be allowed, and of allowing any item of costs, as the judge would have had if the proceedings had been taken in a county court.

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- (5) Subsection (4) above shall not apply where the purpose of taking the proceedings in the High Court was to enable them to be joined with any proceedings already pending before that court (not being proceedings taken under any provision mentioned in subsection (1) above).]

#### Textual Amendments

- F1** Words in s. 40(1) substituted (1.7.2013) by [The Transfer of Tribunal Functions Order 2013 \(S.I. 2013/1036\)](#), art. 1, [Sch. 1 para. 89](#) (with Sch. 3)
- F2** S. 40(2) omitted (1.7.1991) by virtue of [S.I. 1991/724](#), art. 2(8), [Schedule Pt.I](#)
- F3** S. 40(4)(5) repealed (*prosp.*) by [Courts and Legal Services Act 1990 \(c. 41, SIF 76:1\)](#), ss. 124(3), 125(7), [Sch. 20](#)

#### Modifications etc. (not altering text)

- C1** S. 40 extended (1.7.1991) by [S.I. 1991/724](#), [art.2\(1\)\(o\)](#)

### 41 Rent assessment committees: procedure and information powers.

<sup>F4</sup>(1) .....

- (2) The rent assessment committee to whom a matter is referred under Chapter I or Chapter II above may by notice in the prescribed form served on the landlord or the tenant require him to give to the committee, within such period of not less than fourteen days from the service of the notice as may be specified in the notice, such information as they may reasonably require for the purposes of their functions.
- (3) If any person fails without reasonable excuse to comply with a notice served on him under subsection (2) above, he shall be liable on summary conviction to a fine not exceeding level 3 on the standard scale.
- (4) Where an offence under subsection (3) above committed by a body corporate is proved to have been committed with the consent or connivance of, or to be attributable to any neglect on the part of, any director, manager or secretary or other similar officer of the body corporate or any person who was purporting to act in any such capacity, he as well as the body corporate shall be guilty of that offence and shall be liable to be proceeded against and punished accordingly.

#### Textual Amendments

- F4** S. 41(1) repealed (2.9.1993) by [1993 c. 28, s. 187\(2\)](#), [Sch.22](#); [S.I. 1993/2134](#), [arts. 2,3](#)

#### Modifications etc. (not altering text)

- C2** S. 41(2)–(4) applied by [Local Government and Housing Act 1989 \(c. 42, SIF 75:1\)](#), s. 186, [Sch. 10 paras. 12\(1\), 21, 22](#)

### [41A] <sup>F5</sup> Amounts attributable to services.

In order to assist authorities to give effect to the housing benefit scheme under Part VII of the Social Security Contributions and Benefits Act 1992<sup>F6</sup> or to assist the Secretary of State in the administration of universal credit], where a rent is determined under section 14 or 22 above, the [<sup>F7</sup>appropriate tribunal] shall note in their determination the

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amount (if any) of the rent which, in the opinion of the [F8tribunal], is fairly attributable to the provision of services, except where that amount is in their opinion negligible; and the amount so noted may be included in the information specified in an order under section 42 [F9or 42A] below.]

#### Textual Amendments

- F5 S. 41A added (1.7.1992) by [Social Security \(Consequential Provisions\) Act 1992 \(c. 6\), ss. 4, 7\(2\), Sch. 2 para. 103](#)
- F6 Words in s. 41A inserted (29.4.2013) by [The Universal Credit \(Consequential, Supplementary, Incidental and Miscellaneous Provisions\) Regulations 2013 \(S.I. 2013/630\), regs. 1\(2\), 6](#)
- F7 Words in s. 41A substituted (1.7.2013) by [The Transfer of Tribunal Functions Order 2013 \(S.I. 2013/1036\), art. 1, Sch. 1 para. 90\(a\) \(with Sch. 3\)](#)
- F8 Word in s. 41A substituted (1.7.2013) by [The Transfer of Tribunal Functions Order 2013 \(S.I. 2013/1036\), art. 1, Sch. 1 para. 90\(b\) \(with Sch. 3\)](#)
- F9 Words in s. 41A inserted (1.7.2013) by [The Transfer of Tribunal Functions Order 2013 \(S.I. 2013/1036\), art. 1, Sch. 1 para. 90\(c\) \(with Sch. 3\)](#)

#### [41B] F10 Provision of information as to exemption from council tax

A billing authority within the meaning of Part I of the Local Government Finance Act 1992 shall, if so requested in writing by a rent officer or [F11the appropriate tribunal] in connection with his or their functions under any enactment, inform the rent officer or [F11the appropriate tribunal] in writing whether or not a particular dwelling (within the meaning of Part I of the Local Government Finance Act 1992) is, or was at any time specified in the request, an exempt dwelling for the purposes of that Part of that Act.]

#### Textual Amendments

- F10 S. 41B inserted (23.4.1993) by [S.I. 1993/651, art. 2\(1\), Sch. 1 para.18 \(as amended \(23.4.1993\) by S.I. 1993/1120, art.2\)](#).
- F11 Words in s. 41B substituted (1.7.2013) by [The Transfer of Tribunal Functions Order 2013 \(S.I. 2013/1036\), art. 1, Sch. 1 para. 91 \(with Sch. 3\)](#)

#### 42 Information as to determinations of rents [F12in Wales].

- (1) The President of [F13the] rent assessment panel shall keep and make publicly available, in such manner as is specified in an order made by the [F14Welsh Ministers], such information as may be so specified with respect to rents under assured tenancies and assured agricultural occupancies which have been the subject of references or applications to, or determinations by, rent assessment committees [F15in areas in Wales].
- (2) A copy of any information certified under the hand of an officer duly authorised by the President of the rent assessment panel F16... shall be receivable in evidence in any court and in any proceedings.
- (3) An order under subsection (1) above—
  - (a) may prescribe the fees to be charged for the supply of a copy, including a certified copy, of any of the information kept by virtue of that subsection; and

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- (b) may make different provision with respect to different cases or descriptions of case, including different provision for different areas.
- (4) The power to make an order under subsection (1) above shall be exercisable by statutory instrument which shall be subject to annulment in pursuance of a resolution of <sup>[F17]</sup>the National Assembly for Wales].

#### Textual Amendments

- F12** Words in s. 42 inserted (1.7.2013) by [The Transfer of Tribunal Functions Order 2013 \(S.I. 2013/1036\)](#), art. 1, **Sch. 1 para. 92(a)** (with Sch. 3)
- F13** Word in s. 42(1) substituted (1.7.2013) by [The Transfer of Tribunal Functions Order 2013 \(S.I. 2013/1036\)](#), art. 1, **Sch. 1 para. 92(b)(i)** (with Sch. 3)
- F14** Words in s. 42(1) substituted (1.7.2013) by [The Transfer of Tribunal Functions Order 2013 \(S.I. 2013/1036\)](#), art. 1, **Sch. 1 para. 92(b)(ii)** (with Sch. 3)
- F15** Words in s. 42(1) inserted (1.7.2013) by [The Transfer of Tribunal Functions Order 2013 \(S.I. 2013/1036\)](#), art. 1, **Sch. 1 para. 92(b)(iii)** (with Sch. 3)
- F16** Word in s. 42(2) omitted (1.7.2013) by virtue of [The Transfer of Tribunal Functions Order 2013 \(S.I. 2013/1036\)](#), art. 1, **Sch. 1 para. 92(c)** (with Sch. 3)
- F17** Words in s. 42(4) substituted (1.7.2013) by [The Transfer of Tribunal Functions Order 2013 \(S.I. 2013/1036\)](#), art. 1, **Sch. 1 para. 92(d)** (with Sch. 3)

#### <sup>[F18]</sup>42A. Information as to determination of rents in England

- (1) The Chamber President of the Property Chamber of the First-tier Tribunal shall keep and make publicly available, in such manner as may be specified in an order made by the Lord Chancellor, such information as may be specified in an order made by the Secretary of State with respect to rents under assured tenancies and assured agricultural occupancies which have been the subject of references or applications to, or determinations by—
- (a) rent assessment committees in England,
  - (b) the First-tier Tribunal, or
  - (c) the Upper Tribunal.
- (2) A copy of any information certified by a member of staff appointed by the Lord Chancellor and duly authorised by the Chamber President shall be receivable in evidence in any court and in any proceedings.
- (3) An order made by the Lord Chancellor under subsection (1) may prescribe the fees to be charged for the supply of a copy, including a certified copy, of any of the information kept by virtue that subsection.
- (4) The power to make an order under subsection (1) shall be exercisable by statutory instrument which shall be subject to annulment in pursuance of a resolution of either House of Parliament.]

#### Textual Amendments

- F18** S. 42A inserted (1.7.2013) by [The Transfer of Tribunal Functions Order 2013 \(S.I. 2013/1036\)](#), art. 1, **Sch. 1 para. 93** (with Sch. 3)

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#### 43 Powers of local authorities for purposes of giving information.

In section 149 of the <sup>M1</sup>Rent Act 1977 (which, among other matters, authorises local authorities to publish information for the benefit of landlords and tenants with respect to their rights and duties under certain enactments), in subsection (1)(a) after subparagraph (iv) there shall be inserted—

“(v) Chapters I to III of Part I of the Housing Act 1988”.

##### Marginal Citations

M1 1977 c. 42.

#### 44 Application to Crown Property.

- (1) Subject to paragraph 11 of Schedule 1 to this Act and subsection (2) below, Chapters I to IV above apply in relation to premises in which there subsists, or at any material time subsisted, a Crown interest as they apply in relation to premises in relation to which no such interest subsists or ever subsisted.
- (2) In Chapter IV above—
  - (a) sections 27 and 28 do not bind the Crown; and
  - (b) the remainder binds the Crown to the extent provided for in section 10 of the <sup>M2</sup>Protection from Eviction Act 1977.
- (3) In this section “Crown interest” means an interest which belongs to Her Majesty in right of the Crown or of the Duchy of Lancaster or to the Duchy of Cornwall, or to a government department, or which is held in trust for Her Majesty for the purposes of a government department.
- (4) Where an interest belongs to Her Majesty in right of the Duchy of Lancaster, then, for the purposes of Chapters I to IV above, the Chancellor of the Duchy of Lancaster shall be deemed to be the owner of the interest.

##### Marginal Citations

M2 1977 c. 43.

#### 45 Interpretation of Part I.

- (1) In this Part of this Act, except where the context otherwise requires,—
  - [<sup>F19</sup>“appropriate tribunal” means—
    - (a) in relation to a dwelling-house in England, the First-tier Tribunal or, where determined by or under Tribunal Procedure Rules, the Upper Tribunal;
    - (b) in relation to a dwelling-house in Wales, a rent assessment committee;]
  - “dwelling-house” may be a house or part of a house;
  - “fixed term tenancy” means any tenancy other than a periodic tenancy;
  - “fully mutual housing association” has the same meaning as in Part I of the <sup>M3</sup>Housing Associations Act 1985;

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“landlord” includes any person from time to time deriving title under the original landlord and also includes, in relation to a dwelling-house, any person other than a tenant who is, or but for the existence of an assured tenancy would be, entitled to possession of the dwelling-house;

“let” includes “sub-let”;

“prescribed” means prescribed by regulations made by the Secretary of State by statutory instrument;

“rates” includes water rates and charges but does not include an owner’s drainage rate, as defined in section 63(2)(a) of the <sup>M4</sup>Land Drainage Act 1976;

“secure tenancy” has the meaning assigned by section 79 of the <sup>M5</sup>Housing Act 1985;

“statutory periodic tenancy” has the meaning assigned by section 5(7) above;

“tenancy” includes a sub-tenancy and an agreement for a tenancy or sub-tenancy; and

“tenant” includes a sub-tenant and any person deriving title under the original tenant or sub-tenant.

- (2) Subject to paragraph 11 of Schedule 2 to this Act, any reference in this Part of this Act to the beginning of a tenancy is a reference to the day on which the tenancy is entered into or, if it is later, the day on which, under the terms of any lease, agreement or other document, the tenant is entitled to possession under the tenancy.
- (3) Where two or more persons jointly constitute either the landlord or the tenant in relation to a tenancy, then, except where this Part of this Act otherwise provides, any reference to the landlord or to the tenant is a reference to all the persons who jointly constitute the landlord or the tenant, as the case may require.
- (4) For the avoidance of doubt, it is hereby declared that any reference in this Part of this Act (however expressed) to a power for a landlord to determine a tenancy does not include a reference to a power of re-entry or forfeiture for breach of any term or condition of the tenancy.
- (5) Regulations under subsection (1) above may make different provision with respect to different cases or descriptions of case, including different provision for different areas.

#### Textual Amendments

**F19** Words in s. 45(1) inserted (1.7.2013) by [The Transfer of Tribunal Functions Order 2013 \(S.I. 2013/1036\)](#), art. 1, [Sch. 1 para. 94](#) (with [Sch. 3](#))

#### Marginal Citations

**M3** 1985 c. 69.

**M4** 1976 c. 70.

**M5** 1985 c. 68.

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