



Housing Act 1988

1988 CHAPTER 50

PART I

RENTED ACCOMMODATION

CHAPTER I

ASSURED TENANCIES

Security of tenure

5 Security of tenure.

- [^{F1}(1) An assured tenancy cannot be brought to an end by the landlord except by—
- (a) obtaining—
 - (i) an order of the court for possession of the dwelling-house under section 7 or 21, and
 - (ii) the execution of the order,
 - (b) obtaining an order of the court under section 6A (demotion order), or
 - (c) in the case of a fixed term tenancy which contains power for the landlord to determine the tenancy in certain circumstances, by the exercise of that power,
- and, accordingly, the service by the landlord of a notice to quit is of no effect in relation to a periodic assured tenancy.
- (1A) Where an order of the court for possession of the dwelling-house is obtained, the tenancy ends when the order is executed.]
- (2) If an assured tenancy which is a fixed term tenancy comes to an end otherwise than by virtue of—
- (a) an order of the court [^{F2}of the kind mentioned in subsection (1)(a) or (b) or any other order of the court], or
 - (b) a surrender or other action on the part of the tenant,

Status: Point in time view as at 01/04/2013. This version of this provision has been superseded.

Changes to legislation: Housing Act 1988, Section 5 is up to date with all changes known to be in force on or before 25 July 2024. There are changes that may be brought into force at a future date. Changes that have been made appear in the content and are referenced with annotations. (See end of Document for details)

then, subject to section 7 and Chapter II below, the tenant shall be entitled to remain in possession of the dwelling-house let under that tenancy and, subject to subsection (4) below, his right to possession shall depend upon a periodic tenancy arising by virtue of this section.

- (3) The periodic tenancy referred to in subsection (2) above is one—
- (a) taking effect in possession immediately on the coming to an end of the fixed term tenancy;
 - (b) deemed to have been granted by the person who was the landlord under the fixed term tenancy immediately before it came to an end to the person who was then the tenant under that tenancy;
 - (c) under which the premises which are let are the same dwelling-house as was let under the fixed term tenancy;
 - (d) under which the periods of the tenancy are the same as those for which rent was last payable under the fixed term tenancy; and
 - (e) under which, subject to the following provisions of this Part of this Act, the other terms are the same as those of the fixed term tenancy immediately before it came to an end, except that any term which makes provision for determination by the landlord or the tenant shall not have effect while the tenancy remains an assured tenancy.
- (4) The periodic tenancy referred to in subsection (2) above shall not arise if, on the coming to an end of the fixed term tenancy, the tenant is entitled, by virtue of the grant of another tenancy, to possession of the same or substantially the same dwelling-house as was let to him under the fixed term tenancy.
- (5) If, on or before the date on which a tenancy is entered into or is deemed to have been granted as mentioned in subsection (3)(b) above, the person who is to be the tenant under that tenancy—
- (a) enters into an obligation to do any act which (apart from this subsection) will cause the tenancy to come to an end at a time when it is an assured tenancy, or
 - (b) executes, signs or gives any surrender, notice to quit or other document which (apart from this subsection) has the effect of bringing the tenancy to an end at a time when it is an assured tenancy,

the obligation referred to in paragraph (a) above shall not be enforceable or, as the case may be, the surrender, notice to quit or other document referred to in paragraph (b) above shall be of no effect.

[^{F3}(5A) Nothing in subsection (5) affects any right of pre-emption—

- (a) which is exercisable by the landlord under a tenancy in circumstances where the tenant indicates his intention to dispose of the whole of his interest under the tenancy, and
- (b) in pursuance of which the landlord would be required to pay, in respect of the acquisition of that interest, an amount representing its market value.
 “Dispose” means dispose by assignment or surrender, and “acquisition” has a corresponding meaning.]

- (6) If, by virtue of any provision of this Part of this Act, Part I of Schedule 1 to this Act has effect in relation to a fixed term tenancy as if it consisted only of paragraphs 11 and 12, that Part shall have the like effect in relation to any periodic tenancy which arises by virtue of this section on the coming to an end of the fixed term tenancy.

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- (7) Any reference in this Part of this Act to a statutory periodic tenancy is a reference to a periodic tenancy arising by virtue of this section.

Textual Amendments

- F1** S. 5(1)(1A) substituted (20.5.2009) for s. 5(1) by [Housing and Regeneration Act 2008 \(c. 17\)](#), ss. 299, 325, [Sch. 11 para. 6\(2\)](#) (with [Sch. 11 para. 14](#)); S.I. 2009/1261, {arts. 2, 3}
- F2** Words in s. 5(2)(a) inserted (20.5.2009) by [Housing and Regeneration Act 2008 \(c. 17\)](#), ss. 299, 325, [Sch. 11 para. 6\(3\)](#) (with [Sch. 11 para. 14](#)); S.I. 2009/1261, arts. 2, 3
- F3** S. 5(5A) inserted (18.1.2005) by [Housing Act 2004 \(c. 34\)](#), [ss. 222\(1\)\(2\)](#), 270(3)(a)

Status:

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