

Status: Point in time view as at 01/10/2018.

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SCHEDULES

SCHEDULE 11

POSSESSION ORDERS RELATING TO CERTAIN TENANCIES

PART 1

AMENDMENTS TO THE HOUSING ACTS OF 1985, 1988 AND 1996

Housing Act 1985 (c. 68)

1 The Housing Act 1985 is amended as follows.

Commencement Information

II Sch. 11 para. 1 in force at 20.5.2009 by S.I. 2009/1261, arts. 2, 3

2 (1) Section 82 (security of tenure: date on which secure tenancy comes to an end as a result of a possession order etc.) is amended as follows.

(2) In subsection (1) for “by obtaining an order” substitute “ as ”.

(3) For subsections (1A) and (2) substitute—

“(1A) The tenancy may be brought to an end by the landlord—

(a) obtaining—

(i) an order of the court for the possession of the dwelling-house, and

(ii) the execution of the order,

(b) obtaining an order under subsection (3), or

(c) obtaining a demotion order under section 82A.

(2) In the case mentioned in subsection (1A)(a), the tenancy ends when the order is executed.”

Commencement Information

II Sch. 11 para. 2 in force at 20.5.2009 by S.I. 2009/1261, arts. 2, 3

3 (1) Section 85 (extended discretion of court in certain proceedings for possession) is amended as follows.

(2) In subsection (3)(a) omit the words from “or payments” to “profits”.

(3) For subsection (4) substitute—

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“(4) The court may discharge or rescind the order for possession if it thinks it appropriate to do so having had regard to—

- (a) any conditions imposed under subsection (3), and
- (b) the conduct of the tenant in connection with those conditions.”

(4) Omit subsections (5) and (5A).

Commencement Information

I3 Sch. 11 para. 3(1)(2)(4) in force at 20.5.2009 by S.I. 2009/1261, arts. 2, 3

4 In Schedule 3 (grounds for withholding consent to assignment by way of exchange) for Ground 1 substitute—

“Ground 1

The tenant or the proposed assignee is subject to an order of the court for the possession of the dwelling-house of which he is the secure tenant.”

Commencement Information

I4 Sch. 11 para. 4 in force at 20.5.2009 by S.I. 2009/1261, arts. 2, 3

Housing Act 1988 (c. 50)

5 The Housing Act 1988 is amended as follows.

Commencement Information

I5 Sch. 11 para. 5 in force at 20.5.2009 by S.I. 2009/1261, arts. 2, 3

6 (1) Section 5 (security of tenure) is amended as follows.

(2) For subsection (1) substitute—

“(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.”

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- (3) In subsection (2)(a) after “court” insert “ of the kind mentioned in subsection (1)(a) or (b) or any other order of the court ”.

Commencement Information

I6 Sch. 11 para. 6 in force at 20.5.2009 by S.I. 2009/1261, arts. 2, 3

- 7 In section 7(7) (possession orders in cases of fixed term tenancies which have come to an end) for “on the day on which the order takes effect” substitute “ in accordance with section 5(1A) ”.

Commencement Information

I7 Sch. 11 para. 7 in force at 20.5.2009 by S.I. 2009/1261, arts. 2, 3

- 8 (1) Section 9 (extended discretion of court in possession claims) is amended as follows.
(2) In subsection (3) omit the words from “or payments” to “profits”.
(3) For subsection (4) substitute—
“ (4) The court may discharge or rescind any such order as is referred to in subsection (2) if it thinks it appropriate to do so having had regard to—
(a) any conditions imposed under subsection (3), and
(b) the conduct of the tenant in connection with those conditions.”
(4) Omit subsections (5) and (5A).

Commencement Information

I8 Sch. 11 para. 8(1)(2)(4) in force at 20.5.2009 by S.I. 2009/1261, arts. 2, 3

- 9 (1) Section 21 (recovery of possession on expiry or termination of assured shorthold tenancies) is amended as follows.
(2) In subsection (3) for “on the day on which the order takes effect” substitute “ in accordance with section 5(1A) ”.
(3) After subsection (4) insert—
“(4A) Where a court makes an order for possession of a dwelling-house by virtue of subsection (4) above, the assured shorthold tenancy shall end in accordance with section 5(1A).”

Commencement Information

I9 Sch. 11 para. 9 in force at 20.5.2009 by S.I. 2009/1261, arts. 2, 3

Housing Act 1996 (c. 52)

- 10 The Housing Act 1996 is amended as follows.

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Commencement Information

I10 Sch. 11 para. 10 in force at 20.5.2009 by S.I. 2009/1261, arts. 2, 3

- 11 (1) Section 127 (introductory tenancies: proceedings for possession) is amended as follows.
- (2) In subsection (1) for the words from “an order” to the end substitute “—
- (a) an order of the court for the possession of the dwelling-house, and
 - (b) the execution of the order.”
- (3) After subsection (1) insert—
- “(1A) In such a case, the tenancy ends when the order is executed.”
- (4) In subsection (2) for “such an order” substitute “ an order of the kind mentioned in subsection (1)(a) ”.
- (5) Omit subsection (3).

Commencement Information

I11 Sch. 11 para. 11 in force at 20.5.2009 by S.I. 2009/1261, arts. 2, 3

- 12 (1) Section 130 (introductory tenancies: effect of beginning proceedings for possession) is amended as follows.
- (2) In subsection (2)(a) for the words from “in pursuance of”, where they first appear, to “of the court” substitute “ in accordance with section 127(1A) ”.
- (3) In subsection (3)(b) for “127(2) and (3)” substitute “ 127(1A) and (2) ”.

Commencement Information

I12 Sch. 11 para. 12 in force at 20.5.2009 by S.I. 2009/1261, arts. 2, 3

- 13 (1) Section 143D (demoted tenancies: proceedings for possession) is amended as follows.
- (2) In subsection (1) for the words from “an order” to the end substitute “—
- (a) an order of the court for the possession of the dwelling-house, and
 - (b) the execution of the order.”
- (3) After subsection (1) insert—
- “(1A) In such a case, the tenancy ends when the order is executed.”
- (4) Omit subsection (3).

Commencement Information

I13 Sch. 11 para. 13 in force at 20.5.2009 by S.I. 2009/1261, arts. 2, 3

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Transitional provisions

- 14 (1) Subject as follows, this Part of this Schedule does not apply to any possession order made before the commencement date.
- (2) This Part of this Schedule does apply to a possession order made before the commencement date if the order applies to—
- (a) a new tenancy by virtue of paragraph 20, or
 - (b) a tenancy which has not ended pursuant to the order before that date.
- (3) Paragraphs 3(3) and 8(3) apply to any possession order regardless of when it was made.
- (4) In determining for the purposes of sub-paragraph (2) whether a tenancy has ended, any ending which was temporary because the tenancy was restored in consequence of a court order is to be ignored.
- (5) In this paragraph “the commencement date” means the day on which section 299 comes into force for purposes other than the purposes of the Secretary of State or the Welsh Ministers making orders under Part 2 of this Schedule.

Commencement Information

I14 Sch. 11 para. 14(1)(2)(4)(5) in force at 20.5.2009 by S.I. 2009/1261, arts. 2, 3

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