



Landlord and Tenant Act 1954

1954 CHAPTER 56 2 and 3 Eliz 2

PART II

SECURITY OF TENURE FOR BUSINESS, PROFESSIONAL AND OTHER TENANTS

Modifications etc. (not altering text)

- C1** Pt. 2 restricted by 1983 No. 1, s. 56(2G)(b) (as inserted (1.1.2007) by Pastoral (Amendment) Measure 2006 (No. 2), **ss. 1(b), 2(2)**; 2006 No. 3, Instrument made by Archbishops)
- C2** Pt. 2 excluded (20.3.2015) by Criminal Justice and Courts Act 2015 (c. 2), s. 95(1), **Sch. 10 para. 3(1)(a)**; S.I. 2015/778, art. 2(1)(d)
- C3** Pt. 2 excluded (15.3.2018) by City of London Corporation (Open Spaces) Act 2018 (c. i), s. **6(7)** (with ss. 3, 4(2))
- C4** Pt. 2 excluded (coming into force in accordance with s. 13 of the amending Act) by Monken Hadley Common Act 2022 (c. ii), s. **9(5)** (with s. 8(3))
- C5** Pt. 2 amended by Opencast Coal Act 1958 (c. 69), s. 37, Sch. 7 paras. 10, **20**; excluded by Leasehold Reform Act 1967 (c. 88), s. **16(1)(c)(d)** and Rent Act 1977 (c. 42), s. 24(2), Sch. 1 paras. 8, **9**
- C6** Pt. 2 (ss. 23–46) excluded (*prosp.*) by Transport Act 1982 (c. 49, SIF 107:1), **ss. 14(1), 76(2)**
- C7** Pt. 2 (ss. 23–46) excluded by Dockyard Services Act 1986 (c. 52, SIF 58), s. **3(2)**
- C8** Pt. 2 (ss. 23–46) excluded by Housing Act 1988 (c. 50, SIF 61), s. **101(2)**
- C9** Pt. 2 (ss. 23–46) restricted by City of London (Spitalfields Market) Act 1990 (c. ix), s. **5(4)**
- C10** Pt. 2 (ss. 23–46) excluded by Atomic Weapons Establishment Act 1991 (c. 46, SIF 8), ss. 3(1), 6(2), **Sch. para. 3**
 - Pt. 2 (ss. 23–46) excluded (1.11.1993) by 1993 c. 28, s. **59(2)(b)(ii)**; S.I. 1993/2134, **art. 5**
 - Pt. 2 (ss. 23–46) excluded: (1.4.1994) by 1993 c. 43, s. **31(1)** and S.I. 1994/571, **art. 5**; (3.11.1994) by 1994 c. 33, s. **7(3)(a)**; (3.11.1994) by 1991 c. 53, s. **84** (as substituted (3.11.1994) by 1994 c. 33, s. **96**); (1.10.1996) by 1996 c. 46, s. **30(7)(11)** and S.I. 1996/2474, **art. 2**
 - Pt. 2 (ss. 23–46) excluded (1.8.2000) by 1999 c. 33, s. **149(3)(a)**; S.I. 2000/1985, art. 2, **Sch.**

Status: Point in time view as at 28/04/2022.

Changes to legislation: Landlord and Tenant Act 1954, Part II is up to date with all changes known to be in force on or before 27 June 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)

Tenancies to which Part II applies

23 Tenancies to which Part II applies.

(1) Subject to the provisions of this Act, this Part of this Act applies to any tenancy where the property comprised in the tenancy is or includes premises which are occupied by the tenant and are so occupied for the purposes of a business carried on by him or for those and other purposes.

[^{F1}(1A) Occupation or the carrying on of a business—

- (a) by a company in which the tenant has a controlling interest; or
- (b) where the tenant is a company, by a person with a controlling interest in the company,

shall be treated for the purposes of this section as equivalent to occupation or, as the case may be, the carrying on of a business by the tenant.

(1B) Accordingly references (however expressed) in this Part of this Act to the business of, or to use, occupation or enjoyment by, the tenant shall be construed as including references to the business of, or to use, occupation or enjoyment by, a company falling within subsection (1A)(a) above or a person falling within subsection (1A)(b) above.]

(2) In this Part of this Act the expression “business” includes a trade, profession or employment and includes any activity carried on by a body of persons, whether corporate or unincorporate.

(3) In the following provisions of this Part of this Act the expression “the holding”, in relation to a tenancy to which this Part of this Act applies, means the property comprised in the tenancy, there being excluded any part thereof which is occupied neither by the tenant nor by a person employed by the tenant and so employed for the purposes of a business by reason of which the tenancy is one to which this Part of this Act applies.

(4) [^{F2}Subject to subsection (5),] where the tenant is carrying on a business, in all or any part of the property comprised in a tenancy, in breach of a prohibition (however expressed) of use for business purposes which subsists under the terms of the tenancy and extends to the whole of that property, this Part of this Act shall not apply to the tenancy unless the immediate landlord or his predecessor in title has consented to the breach or the immediate landlord has acquiesced therein.

In this subsection the reference to a prohibition of use for business purposes does not include a prohibition of use for the purposes of a specified business, or of use for purposes of any but a specified business, but save as aforesaid includes a prohibition of use for the purposes of some one or more only of the classes of business specified in the definition of that expression in subsection (2) of this section.

[^{F3}(5) Where the tenant's breach of a prohibition (however expressed) of use for business purposes which subsists under the terms of the tenancy and extends to the whole of that property consists solely of carrying on a home business, this Part of this Act does not apply to the tenancy, even if the immediate landlord or the immediate landlord's predecessor in title has consented to the breach or the immediate landlord has acquiesced in the breach.

(6) In subsection (5) “home business” has the same meaning as in section 43ZA.]

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Textual Amendments

- F1** S. 23(1A)(1B) inserted (1.6.2004) by [Regulatory Reform \(Business Tenancies\) \(England and Wales\) Order 2003 \(S.I. 2003/3096\)](#), arts. 1(3), **13**
- F2** Words in s. 23(4) inserted (1.10.2015) by [Small Business, Enterprise and Employment Act 2015 \(c. 26\)](#), **ss. 35(2), 164(1)** (with s. 35(5)); S.I. 2015/1689, reg. 2(b); S.I. 2015/1710, reg. 2(a)
- F3** S. 23(5)(6) inserted (1.10.2015) by [Small Business, Enterprise and Employment Act 2015 \(c. 26\)](#), **ss. 35(3), 164(1)** (with s. 35(5)); S.I. 2015/1689, reg. 2(b); S.I. 2015/1710, reg. 2(a)

Continuation and renewal of tenancies

[^{F4} 24 Continuation of tenancies to which Part II applies and grant of new tenancies.

(1) A tenancy to which this Part of this Act applies shall not come to an end unless terminated in accordance with the provisions of this Part of this Act; and, subject to the [^{F5}following provisions of this Act either the tenant or the landlord under such a tenancy may apply to the court for an order for the grant of] a new tenancy—

- (a) if the landlord has given notice under section 25 of this Act to terminate the tenancy, or
- (b) if the tenant has made a request for a new tenancy in accordance with section 26 of this Act.

(2) The last foregoing subsection shall not prevent the coming to an end of a tenancy by notice to quit given by the tenant, by surrender or forfeiture, or by the forfeiture of a superior tenancy, unless—

- (a) in the case of a notice to quit, the notice was given before the tenant had been in occupation in right of the tenancy for one month; ^{F6}...

^{F6}(b)

[Neither the tenant nor the landlord may make an application under subsection (1) ^{F7}(2A) above if the other has made such an application and the application has been served.

(2B) Neither the tenant nor the landlord may make such an application if the landlord has made an application under section 29(2) of this Act and the application has been served.

(2C) The landlord may not withdraw an application under subsection (1) above unless the tenant consents to its withdrawal.]

(3) Notwithstanding anything in subsection (1) of this section,—

- (a) where a tenancy to which this Part of this Act applies ceases to be such a tenancy, it shall not come to an end by reason only of the cesser, but if it was granted for a term of years certain and has been continued by subsection (1) of this section then (without prejudice to the termination thereof in accordance with any terms of the tenancy) it may be terminated by not less than three nor more than six months' notice in writing given by the landlord to the tenant;
- (b) where, at a time when a tenancy is not one to which this Part of this Act applies, the landlord gives notice to quit, the operation of the notice shall not be affected by reason that the tenancy becomes one to which this Part of this Act applies after the giving of the notice.]

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Textual Amendments

- F4** S. 24 substituted by virtue of [Law of Property Act 1969 \(c. 59\)](#) , s. 15 , **Sch. 1**
- F5** Words in s. 24(1) substituted (1.6.2004) by [Regulatory Reform \(Business Tenancies\) \(England and Wales\) Order 2003 \(S.I. 2003/3096\)](#), arts. 1(3), **3(1)**
- F6** S. 24(2)(b) and preceding word repealed (1.6.2004) by [Regulatory Reform \(Business Tenancies\) \(England and Wales\) Order 2003 \(S.I. 2003/3096\)](#), art. 1(3), **Sch. 6**
- F7** S. 24(2A)-(2C) inserted (1.6.2004) by [Regulatory Reform \(Business Tenancies\) \(England and Wales\) Order 2003 \(S.I. 2003/3096\)](#), arts. 1(3), **3(2)**

Modifications etc. (not altering text)

- C11** S. 24 restricted by [Leasehold Reform Act 1967 \(c. 88\)](#) , s. **35(2)**
- C12** S. 24(1) amended by [Opencast Coal Act 1958 \(c. 69\)](#) , s. 37 , **Sch. 7 para. 22**
- C13** S. 24(3)(b) excluded by [Landlord and Tenant \(Licensed Premises\) Act 1990 \(c. 39, SIF 75:1\)](#) , s. **1(2)**

[^{F8}24A Applications for determination of interim rent while tenancy continues

- (1) Subject to subsection (2) below, if—
- (a) the landlord of a tenancy to which this Part of this Act applies has given notice under section 25 of this Act to terminate the tenancy; or
 - (b) the tenant of such a tenancy has made a request for a new tenancy in accordance with section 26 of this Act,
- either of them may make an application to the court to determine a rent (an “interim rent”) which the tenant is to pay while the tenancy (“the relevant tenancy”) continues by virtue of section 24 of this Act and the court may order payment of an interim rent in accordance with section 24C or 24D of this Act.
- (2) Neither the tenant nor the landlord may make an application under subsection (1) above if the other has made such an application and has not withdrawn it.
- (3) No application shall be entertained under subsection (1) above if it is made more than six months after the termination of the relevant tenancy.

Textual Amendments

- F8** Ss. 24A-24D substituted for s. 24A (1.6.2004) by [Regulatory Reform \(Business Tenancies\) \(England and Wales\) Order 2003 \(S.I. 2003/3096\)](#), arts. 1(3), **18**

24B Date from which interim rent is payable

- (1) The interim rent determined on an application under section 24A(1) of this Act shall be payable from the appropriate date.
- (2) If an application under section 24A(1) of this Act is made in a case where the landlord has given a notice under section 25 of this Act, the appropriate date is the earliest date of termination that could have been specified in the landlord’s notice.
- (3) If an application under section 24A(1) of this Act is made in a case where the tenant has made a request for a new tenancy under section 26 of this Act, the appropriate date is the earliest date that could have been specified in the tenant’s request as the date from which the new tenancy is to begin.

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Textual Amendments

- F8** Ss. 24A-24D substituted for s. 24A (1.6.2004) by [Regulatory Reform \(Business Tenancies\) \(England and Wales\) Order 2003 \(S.I. 2003/3096\)](#), arts. 1(3), **18**

24C Amount of interim rent where new tenancy of whole premises granted and landlord not opposed

- (1) This section applies where—
- (a) the landlord gave a notice under section 25 of this Act at a time when the tenant was in occupation of the whole of the property comprised in the relevant tenancy for purposes such as are mentioned in section 23(1) of this Act and stated in the notice that he was not opposed to the grant of a new tenancy; or
 - (b) the tenant made a request for a new tenancy under section 26 of this Act at a time when he was in occupation of the whole of that property for such purposes and the landlord did not give notice under subsection (6) of that section,
- and the landlord grants a new tenancy of the whole of the property comprised in the relevant tenancy to the tenant (whether as a result of an order for the grant of a new tenancy or otherwise).
- (2) Subject to the following provisions of this section, the rent payable under and at the commencement of the new tenancy shall also be the interim rent.
- (3) Subsection (2) above does not apply where—
- (a) the landlord or the tenant shows to the satisfaction of the court that the interim rent under that subsection differs substantially from the relevant rent; or
 - (b) the landlord or the tenant shows to the satisfaction of the court that the terms of the new tenancy differ from the terms of the relevant tenancy to such an extent that the interim rent under that subsection is substantially different from the rent which (in default of such agreement) the court would have determined under section 34 of this Act to be payable under a tenancy which commenced on the same day as the new tenancy and whose other terms were the same as the relevant tenancy.
- (4) In this section “the relevant rent” means the rent which (in default of agreement between the landlord and the tenant) the court would have determined under section 34 of this Act to be payable under the new tenancy if the new tenancy had commenced on the appropriate date (within the meaning of section 24B of this Act).
- (5) The interim rent in a case where subsection (2) above does not apply by virtue only of subsection (3)(a) above is the relevant rent.
- (6) The interim rent in a case where subsection (2) above does not apply by virtue only of subsection (3)(b) above, or by virtue of subsection (3)(a) and (b) above, is the rent which it is reasonable for the tenant to pay while the relevant tenancy continues by virtue of section 24 of this Act.
- (7) In determining the interim rent under subsection (6) above the court shall have regard—
- (a) to the rent payable under the terms of the relevant tenancy; and

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(b) to the rent payable under any sub-tenancy of part of the property comprised in the relevant tenancy,

but otherwise subsections (1) and (2) of section 34 of this Act shall apply to the determination as they would apply to the determination of a rent under that section if a new tenancy of the whole of the property comprised in the relevant tenancy were granted to the tenant by order of the court and the duration of that new tenancy were the same as the duration of the new tenancy which is actually granted to the tenant.

(8) In this section and section 24D of this Act “the relevant tenancy” has the same meaning as in section 24A of this Act.

Textual Amendments

F8 Ss. 24A-24D substituted for s. 24A (1.6.2004) by [Regulatory Reform \(Business Tenancies\) \(England and Wales\) Order 2003 \(S.I. 2003/3096\)](#), arts. 1(3), **18**

24D Amount of interim rent in any other case

(1) The interim rent in a case where section 24C of this Act does not apply is the rent which it is reasonable for the tenant to pay while the relevant tenancy continues by virtue of section 24 of this Act.

(2) In determining the interim rent under subsection (1) above the court shall have regard—

- (a) to the rent payable under the terms of the relevant tenancy; and
- (b) to the rent payable under any sub-tenancy of part of the property comprised in the relevant tenancy,

but otherwise subsections (1) and (2) of section 34 of this Act shall apply to the determination as they would apply to the determination of a rent under that section if a new tenancy from year to year of the whole of the property comprised in the relevant tenancy were granted to the tenant by order of the court.

(3) If the court—

- (a) has made an order for the grant of a new tenancy and has ordered payment of interim rent in accordance with section 24C of this Act, but
- (b) either—
 - (i) it subsequently revokes under section 36(2) of this Act the order for the grant of a new tenancy; or
 - (ii) the landlord and tenant agree not to act on the order,
 the court on the application of the landlord or the tenant shall determine a new interim rent in accordance with subsections (1) and (2) above without a further application under section 24A(1) of this Act.]

Textual Amendments

F8 Ss. 24A-24D substituted for s. 24A (1.6.2004) by [Regulatory Reform \(Business Tenancies\) \(England and Wales\) Order 2003 \(S.I. 2003/3096\)](#), arts. 1(3), **18**

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25 Termination of tenancy by the landlord.

- (1) The landlord may terminate a tenancy to which this Part of this Act applies by a notice given to the tenant in the prescribed form specifying the date at which the tenancy is to come to an end (hereinafter referred to as “ the date of termination ”):

Provided that this subsection has effect subject to [^{F9}the provisions of section 29B(4) of this Act and] the provisions of Part IV of this Act as to the interim continuation of tenancies pending the disposal of applications to the court.

- (2) Subject to the provisions of the next following subsection, a notice under this section shall not have effect unless it is given not more than twelve nor less than six months before the date of the termination specified therein.
- (3) In the case of a tenancy which apart from this Act could have been brought to an end by notice to quit given by the landlord—
- (a) the date of termination specified in a notice under this section shall not be earlier than the earliest date on which apart from this Part of this Act the tenancy could have been brought to an end by notice to quit given by the landlord on the date of the giving of the notice under this section; and
 - (b) where apart from this Part of this Act more than six months’ notice to quit would have been required to bring the tenancy to an end, the last foregoing subsection shall have effect with the substitution for twelve months of a period six months longer than the length of notice to quit which would have been required as aforesaid.
- (4) In the case of any other tenancy, a notice under this section shall not specify a date of termination earlier than the date on which apart from this Part of this Act the tenancy would have come to an end by effluxion of time.

^{F10}(5)

[^{F11}(6) A notice under this section shall not have effect unless it states whether the landlord is opposed to the grant of a new tenancy to the tenant.

(7) A notice under this section which states that the landlord is opposed to the grant of a new tenancy to the tenant shall not have effect unless it also specifies one or more of the grounds specified in section 30(1) of this Act as the ground or grounds for his opposition.

(8) A notice under this section which states that the landlord is not opposed to the grant of a new tenancy to the tenant shall not have effect unless it sets out the landlord’s proposals as to—

- (a) the property to be comprised in the new tenancy (being either the whole or part of the property comprised in the current tenancy);
- (b) the rent to be payable under the new tenancy; and
- (c) the other terms of the new tenancy.]

Textual Amendments

F9 Words in s. 25(1) inserted (1.6.2004) by [Regulatory Reform \(Business Tenancies\) \(England and Wales\) Order 2003 \(S.I. 2003/3096\)](#), arts. 1(3), 11

F10 S. 25(5) repealed (1.6.2004) by [Regulatory Reform \(Business Tenancies\) \(England and Wales\) Order 2003 \(S.I. 2003/3096\)](#), arts. 1(3), 4(1), [Sch. 6](#)

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F11 S. 25(6)-(8) substituted for s. 25(6) (1.6.2004) by [Regulatory Reform \(Business Tenancies\) \(England and Wales\) Order 2003 \(S.I. 2003/3096\)](#), arts. 1(3), **4(2)**

Modifications etc. (not altering text)

C14 S. 25 restricted by [Leasehold Reform Act 1967 \(c. 88\)](#) , **s. 35(2)** ; excluded by [Leasehold Reform Act 1967 \(c. 88\)](#) , ss. 22(1) , 34 , **Sch. 3 para. 2(2)**

26 Tenant’s request for a new tenancy.

- (1) A tenant’s request for a new tenancy may be made where the [^{F12}current tenancy] is a tenancy granted for a term of years certain exceeding one year, whether or not continued by section twenty-four of this Act, or granted for a term of years certain and thereafter from year to year.
- (2) A tenant’s request for a new tenancy shall be for a tenancy beginning with such date, not more than twelve nor less than six months after the making of the request, as may be specified therein:
 Provided that the said date shall not be earlier than the date on which apart from this Act the current tenancy would come to an end by effluxion of time or could be brought to an end by notice to quit given by the tenant.
- (3) A tenant’s request for a new tenancy shall not have effect unless it is made by notice in the prescribed form given to the landlord and sets out the tenant’s proposals as to the property to be comprised in the new tenancy (being either the whole or part of the property comprised in the current tenancy), as to the rent to be payable under the new tenancy and as to the other terms of the new tenancy.
- (4) A tenant’s request for a new tenancy shall not be made if the landlord has already given notice under the last foregoing section to terminate the current tenancy, or if the tenant has already given notice to quit or notice under the next following section; and no such notice shall be given by the landlord or the tenant after the making by the tenant of a request for a new tenancy.
- (5) Where the tenant makes a request for a new tenancy in accordance with the foregoing provisions of this section, the current tenancy shall, subject to the provisions of [^{F13}sections 29B(4) and 36(2)] of this Act and the provisions of Part IV of this Act as to the interim continuation of tenancies, terminate immediately before the date specified in the request for the beginning of the new tenancy.
- (6) Within two months of the making of a tenant’s request for a new tenancy the landlord may give notice to the tenant that he will oppose an application to the court for the grant of a new tenancy, and any such notice shall state on which of the grounds mentioned in section thirty of this Act the landlord will oppose the application.

Textual Amendments

F12 Words in s. 26(1) substituted (1.6.2004) by [Regulatory Reform \(Business Tenancies\) \(England and Wales\) Order 2003 \(S.I. 2003/3096\)](#), art. 1(3), **Sch. 5 para. 3**

F13 Words in s. 26(5) substituted (1.6.2004) by [Regulatory Reform \(Business Tenancies\) \(England and Wales\) Order 2003 \(S.I. 2003/3096\)](#), arts. 1(3), **12**

Modifications etc. (not altering text)

C15 S. 26 excluded by [Leasehold Reform Act 1967 \(c. 88\)](#) , ss. 17 , 18 , **Sch. 2 para. 6(1)**

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S. 26 restricted (1.11.1993) by 1993 c. 28 , s. 61 , **Sch. 14** , para. 6(1) ; S.I. 1993/2134 , **art. 5**

[^{F14}27 Termination by tenant of tenancy for fixed term.

(1) Where the tenant under a tenancy to which this Part of this Act applies, being a tenancy granted for a term of years certain, gives to the immediate landlord, not later than three months before the date on which apart from this Act the tenancy would come to an end by effluxion of time, a notice in writing that the tenant does not desire the tenancy to be continued, section 24 of this Act shall not have effect in relation to the tenancy, unless the notice is given before the tenant has been in occupation in right of the tenancy for one month.

[Section 24 of this Act shall not have effect in relation to a tenancy for a term of years
^{F15}(1A) certain where the tenant is not in occupation of the property comprised in the tenancy at the time when, apart from this Act, the tenancy would come to an end by effluxion of time.]

(2) A tenancy granted for a term of years certain which is continuing by virtue of section 24 of this Act [^{F16}shall not come to an end by reason only of the tenant ceasing to occupy the property comprised in the tenancy but] may be brought to an end on any ^{F17}... day by not less than three months' notice in writing given by the tenant to the immediate landlord, whether the notice is given after the date on which apart from this Act the tenancy would have come to an end or before that date, but not before the tenant has been in occupation in right of the tenancy for one month.]

[^{F18}(3) Where a tenancy is terminated under subsection (2) above, any rent payable in respect of a period which begins before, and ends after, the tenancy is terminated shall be apportioned, and any rent paid by the tenant in excess of the amount apportioned to the period before termination shall be recoverable by him.]

Textual Amendments

F14 S. 27 substituted by virtue of Law of Property Act 1969 (c. 59), s. 15, **Sch. 1**

F15 S. 27(1A) inserted (1.6.2004) by Regulatory Reform (Business Tenancies) (England and Wales) Order 2003 (S.I. 2003/3096), arts. 1(3), **25(1)**

F16 Words in s. 27(2) inserted (1.6.2004) by Regulatory Reform (Business Tenancies) (England and Wales) Order 2003 (S.I. 2003/3096), arts. 1(3), **25(2)(a)**

F17 Word in s. 27(2) repealed (1.6.2004) by Regulatory Reform (Business Tenancies) (England and Wales) Order 2003 (S.I. 2003/3096), arts. 1(3), 25(2)(b), **Sch. 6**

F18 S. 27(3) inserted (1.6.2004) by Regulatory Reform (Business Tenancies) (England and Wales) Order 2003 (S.I. 2003/3096), arts. 1(3), **25(3)**

Modifications etc. (not altering text)

C16 S. 27(1) extended by Leasehold Reform Act 1967 (c. 88) , ss. 22(1) , 34 , **Sch. 3 para. 1(3)**

28 Renewal of tenancies by agreement.

Where the landlord and tenant agree for the grant to the tenant of a future tenancy of the holding, or of the holding with other land, on terms and from a date specified in the agreement, the current tenancy shall continue until that date but no longer, and shall not be a tenancy to which this Part of this Act applies.

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Application to court for new tenancies

[^{F19}29. Order by court for grant of new tenancy or termination of current tenancy

- (1) Subject to the provisions of this Act, on an application under section 24(1) of this Act, the court shall make an order for the grant of a new tenancy and accordingly for the termination of the current tenancy immediately before the commencement of the new tenancy.
- (2) Subject to the following provisions of this Act, a landlord may apply to the court for an order for the termination of a tenancy to which this Part of this Act applies without the grant of a new tenancy—
 - (a) if he has given notice under section 25 of this Act that he is opposed to the grant of a new tenancy to the tenant; or
 - (b) if the tenant has made a request for a new tenancy in accordance with section 26 of this Act and the landlord has given notice under subsection (6) of that section.
- (3) The landlord may not make an application under subsection (2) above if either the tenant or the landlord has made an application under section 24(1) of this Act.
- (4) Subject to the provisions of this Act, where the landlord makes an application under subsection (2) above—
 - (a) if he establishes, to the satisfaction of the court, any of the grounds on which he is entitled to make the application in accordance with section 30 of this Act, the court shall make an order for the termination of the current tenancy in accordance with section 64 of this Act without the grant of a new tenancy; and
 - (b) if not, it shall make an order for the grant of a new tenancy and accordingly for the termination of the current tenancy immediately before the commencement of the new tenancy.
- (5) The court shall dismiss an application by the landlord under section 24(1) of this Act if the tenant informs the court that he does not want a new tenancy.
- (6) The landlord may not withdraw an application under subsection (2) above unless the tenant consents to its withdrawal.]

Textual Amendments

F19 S. 29 substituted (1.6.2004) by [Regulatory Reform \(Business Tenancies\) \(England and Wales\) Order 2003 \(S.I. 2003/3096\)](#), arts. 1(3), 5

[^{F20}29A. Time limits for applications to court

- (1) Subject to section 29B of this Act, the court shall not entertain an application—
 - (a) by the tenant or the landlord under section 24(1) of this Act; or
 - (b) by the landlord under section 29(2) of this Act,
 if it is made after the end of the statutory period.
- (2) In this section and section 29B of this Act “the statutory period” means a period ending—

Status: Point in time view as at 28/04/2022.

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- (a) where the landlord gave a notice under section 25 of this Act, on the date specified in his notice; and
 - (b) where the tenant made a request for a new tenancy under section 26 of this Act, immediately before the date specified in his request.
- (3) Where the tenant has made a request for a new tenancy under section 26 of this Act, the court shall not entertain an application under section 24(1) of this Act which is made before the end of the period of two months beginning with the date of the making of the request, unless the application is made after the landlord has given a notice under section 26(6) of this Act.]

Textual Amendments

F20 S. 29A inserted (1.6.2004) by [Regulatory Reform \(Business Tenancies\) \(England and Wales\) Order 2003 \(S.I. 2003/3096\)](#), arts. 1(3), **10**

[^{F21}**29B. Agreements extending time limits**

- (1) After the landlord has given a notice under section 25 of this Act, or the tenant has made a request under section 26 of this Act, but before the end of the statutory period, the landlord and tenant may agree that an application such as is mentioned in section 29A(1) of this Act, may be made before the end of a period specified in the agreement which will expire after the end of the statutory period.
- (2) The landlord and tenant may from time to time by agreement further extend the period for making such an application, but any such agreement must be made before the end of the period specified in the current agreement.
- (3) Where an agreement is made under this section, the court may entertain an application such as is mentioned in section 29A(1) of this Act if it is made before the end of the period specified in the agreement.
- (4) Where an agreement is made under this section, or two or more agreements are made under this section, the landlord's notice under section 25 of this Act or tenant's request under section 26 of this Act shall be treated as terminating the tenancy at the end of the period specified in the agreement or, as the case may be, at the end of the period specified in the last of those agreements.]

Textual Amendments

F21 S. 29B inserted (1.6.2004) by [Regulatory Reform \(Business Tenancies\) \(England and Wales\) Order 2003 \(S.I. 2003/3096\)](#), arts. 1(3), **10**

[^{F22}**30 Opposition by landlord to application for new tenancy.**

- (1) The grounds on which a landlord may oppose an application under [^{F23}section 24(1) of this Act, or make an application under section 29(2) of this Act,] are such of the following grounds as may be stated in the landlord's notice under section 25 of this Act or, as the case may be, under subsection (6) of section 26 thereof, that is to say:—
 - (a) where under the current tenancy the tenant has any obligations as respects the repair and maintenance of the holding, that the tenant ought not to be granted a

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- new tenancy in view of the state of repair of the holding, being a state resulting from the tenant's failure to comply with the said obligations;
- (b) that the tenant ought not to be granted a new tenancy in view of his persistent delay in paying rent which has become due;
 - (c) that the tenant ought not to be granted a new tenancy in view of other substantial breaches by him of his obligations under the current tenancy, or for any other reason connected with the tenant's use or management of the holding;
 - (d) that the landlord has offered and is willing to provide or secure the provision of alternative accommodation for the tenant, that the terms on which the alternative accommodation is available are reasonable having regard to the terms of the current tenancy and to all other relevant circumstances, and that the accommodation and the time at which it will be available are suitable for the tenant's requirements (including the requirement to preserve goodwill) having regard to the nature and class of his business and to the situation and extent of, and facilities afforded by, the holding;
 - (e) where the current tenancy was created by the sub-letting of part only of the property comprised in a superior tenancy and the landlord is the owner of an interest in reversion expectant on the termination of that superior tenancy, that the aggregate of the rents reasonably obtainable on separate lettings of the holding and the remainder of that property would be substantially less than the rent reasonably obtainable on a letting of that property as a whole, that on the termination of the current tenancy the landlord requires possession of the holding for the purpose of letting or otherwise disposing of the said property as a whole, and that in view thereof the tenant ought not to be granted a new tenancy;
 - (f) that on the termination of the current tenancy the landlord intends to demolish or reconstruct the premises comprised in the holding or a substantial part of those premises or to carry out substantial work of construction on the holding or part thereof and that he could not reasonably do so without obtaining possession of the holding;
 - (g) subject as hereinafter provided, that on the termination of the current tenancy the landlord intends to occupy the holding for the purposes, or partly for the purposes, of a business to be carried on by him therein, or as his residence.

^{F24}(1A) [Where the landlord has a controlling interest in a company, the reference in subsection (1)(g) above to the landlord shall be construed as a reference to the landlord or that company.

(1B) Subject to subsection (2A) below, where the landlord is a company and a person has a controlling interest in the company, the reference in subsection (1)(g) above to the landlord shall be construed as a reference to the landlord or that person.]

(2) The landlord shall not be entitled to oppose an application^{F25} under section 24(1) of this Act, or make an application under section 29(2) of this Act,] on the ground specified in paragraph (g) of the last foregoing subsection if the interest of the landlord, or an interest which has merged in that interest and but for the merger would be the interest of the landlord, was purchased or created after the beginning of the period of five years which ends with the termination of the current tenancy, and at all times since the purchase or creation thereof the holding has been comprised in a tenancy or successive tenancies of the description specified in subsection (1) of section 23 of this Act.

Status: Point in time view as at 28/04/2022.

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[Subsection (1B) above shall not apply if the controlling interest was acquired after the ^{F26}(2A) beginning of the period of five years which ends with the termination of the current tenancy, and at all times since the acquisition of the controlling interest the holding has been comprised in a tenancy or successive tenancies of the description specified in section 23(1) of this Act.]

^{F27}(3)]

Textual Amendments

- F22** S. 30 substituted by virtue of [Law of Property Act 1969 \(c. 59\)](#) , s. 15 , **Sch. 1**
- F23** Words in s. 30(1) substituted (1.6.2004) by [Regulatory Reform \(Business Tenancies\) \(England and Wales\) Order 2003 \(S.I. 2003/3096\)](#) , arts. 1(3) , **6(1)**
- F24** S. 30(1A)(1B) inserted (1.6.2004) by [Regulatory Reform \(Business Tenancies\) \(England and Wales\) Order 2003 \(S.I. 2003/3096\)](#) , arts. 1(3) , **14(1)**
- F25** Words in s. 30(2) inserted (1.6.2004) by [Regulatory Reform \(Business Tenancies\) \(England and Wales\) Order 2003 \(S.I. 2003/3096\)](#) , arts. 1(3) , **6(2)**
- F26** S. 30(2A) inserted (1.6.2004) by [Regulatory Reform \(Business Tenancies\) \(England and Wales\) Order 2003 \(S.I. 2003/3096\)](#) , arts. 1(3) , **14(2)**
- F27** S. 30(3) repealed (1.6.2004) by [Regulatory Reform \(Business Tenancies\) \(England and Wales\) Order 2003 \(S.I. 2003/3096\)](#) , art. 1(3) , **Sch. 6**

Modifications etc. (not altering text)

- C17** S. 30(1)(b) modified (temp.) (25.3.2020) by [Coronavirus Act 2020 \(c. 7\)](#) , **ss. 82(11)** , 87(1) (with **ss. 88-90**) which affecting provision expires (25.9.2022) by virtue of [Coronavirus Act 2020 \(c. 7\)](#) , **s. 89** (with s. 90)
- C18** S. 30(1)(b) modified (24.3.2022) by [Commercial Rent \(Coronavirus\) Act 2022 \(c. 12\)](#) , s. 31(4) , **Sch. 2 para. 5(3)** (with s. 30)
- C19** S. 30(2) excluded by: 1993 c. xviii , **s. 13(a)** ; 1994 c. xiv , **s. 9(1)** ; 1996 c. ii , **s. 11(1)**
S. 30(2) excluded by 1994 c. v , s. 1 , **Sch.** , s. 24(1)(a)
S. 30(2) excluded by 1998 c. v , **ss. 3** , 13(1)(a) .
S. 30(2) excluded by 1999 c. iv , **s. 13(1)(a)**
S. 30(2) excluded by 2000 c. iii , **ss. 14(a)** , 16
S. 30(2) excluded by 2001 c. i , **s. 11(a)** (with s. 13)
S. 30(2) excluded by 2001 c. v , **s. 15(1)(a)**
- C20** S. 30(2) excluded (coming into force in accordance with s. 4 of the amending Act) by [Barclays Group Reorganisation Act 2002 \(c. iv\)](#) , { s.14(1)(a)}
- C21** S. 30(2) excluded (coming into force in accordance with s. 4 of the amending Act) by [HSBC Investment Banking Act 2002 \(c. iii\)](#) , **s.14(1)(a)**
- C22** S. 30(2) excluded (21.6.2006) by [HBOS Group Reorganisation Act 2006 \(c. i\)](#) , **s. 21(1)**

31 Dismissal of application for new tenancy where landlord successfully opposes.

- (1) If the landlord opposes an application under subsection (1) of section twenty-four of this Act on grounds on which he is entitled to oppose it in accordance with the last foregoing section and establishes any of those grounds to the satisfaction of the court, the court shall not make an order for the grant of a new tenancy.
- (2) [^{F28}Where the landlord opposes an application under section 24(1) of this Act, or makes an application under section 29(2) of this Act, on one or more of the grounds specified in section 30(1)(d) to (f) of this Act but establishes none of those grounds, and none of the other grounds specified in section 30(1) of this Act, to the satisfaction of the

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court, then if the court would have been satisfied on any of the grounds specified in section 30(1)(d) to (f) of this Act] if the date of termination specified in the landlord's notice or, as the case may be, the date specified in the tenant's request for a new tenancy as the date from which the new tenancy is to begin, had been such later date as the court may determine, being a date not more than one year later than the date so specified,—

- (a) the court shall make a declaration to that effect, stating of which of the said grounds the court would have been satisfied as aforesaid and specifying the date determined by the court as aforesaid, but shall not make an order for the grant of a new tenancy;
- (b) if, within fourteen days after the making of the declaration, the tenant so requires the court shall make an order substituting the said date for the date specified in the said landlord's notice or tenant's request, and thereupon that notice or request shall have effect accordingly.

Textual Amendments

F28 Words in s. 31(2) substituted (1.6.2004) by [Regulatory Reform \(Business Tenancies\) \(England and Wales\) Order 2003 \(S.I. 2003/3096\)](#), arts. 1(3), 7

[^{F29}31A Grant of new tenancy in some cases where s. 30(1)(f) applies.

- (1) Where the landlord opposes an application under section 24(1) of this Act on the ground specified in paragraph (f) of section 30(1) of this Act^{F30}, or makes an application under section 29(2) of this Act on that ground,] the court shall not hold that the landlord could not reasonably carry out the demolition, reconstruction or work of construction intended without obtaining possession of the holding if—
 - (a) the tenant agrees to the inclusion in the terms of the new tenancy of terms giving the landlord access and other facilities for carrying out the work intended and, given that access and those facilities, the landlord could reasonably carry out the work without obtaining possession of the holding and without interfering to a substantial extent or for a substantial time with the use of the holding for the purposes of the business carried on by the tenant; or
 - (b) the tenant is willing to accept a tenancy of an economically separable part of the holding and either paragraph (a) of this section is satisfied with respect to that part or possession of the remainder of the holding would be reasonably sufficient to enable the landlord to carry out the intended work.
- (2) For the purposes of subsection (1)(b) of this section a part of a holding shall be deemed to be an economically separate part if, and only if, the aggregate of the rents which, after the completion of the intended work, would be reasonably obtainable on separate lettings of that part and the remainder of the premises affected by or resulting from the work would not be substantially less than the rent which would then be reasonably obtainable on a letting of those premises as a whole.]

Textual Amendments

F29 S. 31A inserted by [Law of Property Act 1969 \(c. 59\)](#), s. 7(1)

F30 Words in s. 31A(1) inserted (1.6.2004) by [Regulatory Reform \(Business Tenancies\) \(England and Wales\) Order 2003 \(S.I. 2003/3096\)](#), arts. 1(3), 8

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[^{F31}32] **Property to be comprised in new tenancy.**

- (1) Subject to the following provisions of this section, an order under section 29 of this Act for the grant of a new tenancy shall be an order for the grant of a new tenancy of the holding; and in the absence of agreement between the landlord and the tenant as to the property which constitutes the holding the court shall in the order designate that property by reference to the circumstances existing at the date of the order.
- (1A) Where the court, by virtue of paragraph (b) of section 31A(1) of this Act, makes an order under section 29 of this Act for the grant of a new tenancy in a case where the tenant is willing to accept a tenancy of part of the holding, the order shall be an order for the grant of a new tenancy of that part only.
- (2) The foregoing provisions of this section shall not apply in a case where the property comprised in the current tenancy includes other property besides the holding and the landlord requires any new tenancy ordered to be granted under section 29 of this Act to be a tenancy of the whole of the property comprised in the current tenancy; but in any such case—
 - (a) any order under the said section 29 for the grant of a new tenancy shall be an order for the grant of a new tenancy of the whole of the property comprised in the current tenancy, and
 - (b) references in the following provisions of this Part of this Act to the holding shall be construed as references to the whole of that property.
- (3) Where the current tenancy includes rights enjoyed by the tenant in connection with the holding, those rights shall be included in a tenancy ordered to be granted under section 29 of this Act, except as otherwise agreed between the landlord and the tenant or, in default of such agreement, determined by the court.]

Textual Amendments

F31 S. 32 substituted by virtue of [Law of Property Act 1969 \(c. 59\), s. 15, Sch. 1](#)

33 Duration of new tenancy.

Where on an application under this Part of this Act the court makes an order for the grant of a new tenancy, the new tenancy shall be such tenancy as may be agreed between the landlord and the tenant, or, in default of such an agreement, shall be such a tenancy as may be determined by the court to be reasonable in all the circumstances, being, if it is a tenancy for a term of years certain, a tenancy for a term not exceeding [^{F32}fifteen] years, and shall begin on the coming to an end of the current tenancy.

Textual Amendments

F32 Word in s. 33 substituted (1.6.2004) by [Regulatory Reform \(Business Tenancies\) \(England and Wales\) Order 2003 \(S.I. 2003/3096\), arts. 1\(3\), 26](#)

[^{F33}34] **Rent under new tenancy.**

- (1) The rent payable under a tenancy granted by order of the court under this Part of this Act shall be such as may be agreed between the landlord and the tenant or as, in default of such agreement, may be determined by the court to be that at which, having

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regard to the terms of the tenancy (other than those relating to rent), the holding might reasonably be expected to be let in the open market by a willing lessor, there being disregarded—

- (a) any effect on rent of the fact that the tenant has or his predecessors in title have been in occupation of the holding,
- (b) any goodwill attached to the holding by reason of the carrying on thereof of the business of the tenant (whether by him or by a predecessor of his in that business),
- (c) any effect on rent of an improvement to which this paragraph applies,
- (d) in the case of a holding comprising licensed premises, any addition to its value attributable to the licence, if it appears to the court that having regard to the terms of the current tenancy and any other relevant circumstances the benefit of the licence belongs to the tenant.

(2) Paragraph (c) of the foregoing subsection applies to any improvement carried out by a person who at the time it was carried out was the tenant, but only if it was carried out otherwise than in pursuance of an obligation to his immediate landlord and either it was carried out during the current tenancy or the following conditions are satisfied, that is to say,—

- (a) that it was completed not more than twenty-one years before the application [^{F34}to the court] was made; and
- (b) that the holding or any part of it affected by the improvement has at all times since the completion of the improvement been comprised in tenancies of the description specified in section 23(1) of this Act; and
- (c) that at the termination of each of those tenancies the tenant did not quit.

[If this Part of this Act applies by virtue of section 23(1A) of this Act, the reference in ^{F35}(2A) subsection (1)(d) above to the tenant shall be construed as including—

- (a) a company in which the tenant has a controlling interest, or
- (b) where the tenant is a company, a person with a controlling interest in the company.]

(3) Where the rent is determined by the court the court may, if it thinks fit, further determine that the terms of the tenancy shall include such provision for varying the rent as may be specified in the determination.]

[^{F36}(4) It is hereby declared that the matters which are to be taken into account by the court in determining the rent include any effect on rent of the operation of the provisions of the Landlord and Tenant (Covenants) Act 1995.]

Textual Amendments

- F33** S. 34 substituted by virtue of [Law of Property Act 1969 \(c. 59\), s. 15, Sch. 1](#)
- F34** Words in s. 34(2)(a) substituted (1.6.2004) by [Regulatory Reform \(Business Tenancies\) \(England and Wales\) Order 2003 \(S.I. 2003/3096\), arts. 1\(3\), 9](#)
- F35** S. 34(2A) inserted (1.6.2004) by [Regulatory Reform \(Business Tenancies\) \(England and Wales\) Order 2003 \(S.I. 2003/3096\), arts. 1\(3\), 15](#)
- F36** S. 34(4) inserted (1.1.1996) by [1995 c. 30, s. 30\(1\), Sch. 1 para. 3](#) (with ss. 2(2), 26(1)(2)); [S.I. 1995/2963, art. 2](#)

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^{F37} 35 Other terms of new tenancy.

[^{F38}(1)] The terms of a tenancy granted by order of the court under this Part of this Act (other than terms as to the duration thereof and as to the rent payable thereunder)^{F38}, including, where different persons own interests which fulfil the conditions specified in section 44(1) of this Act in different parts of it, terms as to the apportionment of the rent,] shall be such as may be agreed between the landlord and the tenant or as, in default of such agreement, may be determined by the court; and in determining those terms the court shall have regard to the terms of the current tenancy and to all relevant circumstances.

[^{F39}(2)] In subsection (1) of this section the reference to all relevant circumstances includes (without prejudice to the generality of that reference) a reference^{F37} to the operation of the provisions of the Landlord and Tenant (Covenants) Act 1995.]

Textual Amendments

F37 S. 35 renumbered as s. 35(1) (1.6.1996) by virtue of 1995 c. 30, s. 30(1), **Sch. 1 para. 4(1)** (with ss. 2(2), 26(1)(2)); S.I. 1995/2963, **art. 2**

F38 Words in s. 35(1) inserted (1.6.2004) by Regulatory Reform (Business Tenancies) (England and Wales) Order 2003 (S.I. 2003/3096), arts. 1(3), **27(3)**

F39 S. 35(2) inserted (1.6.1996) by 1995 c. 30, s. 30(1), **Sch. 1 para. 4(2)** (with ss. 2(2), 26(1)(2)); S.I. 1995/2963, **art. 2**

Modifications etc. (not altering text)

C23 S. 35 amended by Opencast Coal Act 1958 (c. 69), s. 37, **Sch. 7 para. 22(3)**

36 Carrying out of order for new tenancy.

- (1) Where under this Part of this Act the court makes an order for the grant of a new tenancy, then, unless the order is revoked under the next following subsection or the landlord and the tenant agree not to act upon the order, the landlord shall be bound to execute or make in favour of the tenant, and the tenant shall be bound to accept, a lease or agreement for a tenancy of the holding embodying the terms agreed between the landlord and the tenant or determined by the court in accordance with the foregoing provisions of this Part of this Act; and where the landlord executes or makes such a lease or agreement the tenant shall be bound, if so required by the landlord, to execute a counterpart or duplicate thereof.
- (2) If the tenant, within fourteen days after the making of an order under this Part of this Act for the grant of a new tenancy, applies to the court for the revocation of the order the court shall revoke the order; and where the order is so revoked, then, if it is so agreed between the landlord and the tenant or determined by the court, the current tenancy shall continue, beyond the date at which it would have come to an end apart from this subsection, for such period as may be so agreed or determined to be necessary to afford to the landlord a reasonable opportunity for reletting or otherwise disposing of the premises which would have been comprised in the new tenancy; and while the current tenancy continues by virtue of this subsection it shall not be a tenancy to which this Part of this Act applies.
- (3) Where an order is revoked under the last foregoing subsection any provision thereof as to payment of costs shall not cease to have effect by reason only of the revocation;

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but the court may, if it thinks fit, revoke or vary any such provision or, where no costs have been awarded in the proceedings for the revoked order, award such costs.

- (4) A lease executed or agreement made under this section, in a case where the interest of the lessor is subject to a mortgage, shall be deemed to be one authorised by section ninety-nine of the ^{M1}Law of Property Act 1925 (which confers certain powers of leasing on mortgagors in possession), and subsection (13) of that section (which allows those powers to be restricted or excluded by agreement) shall not have effect in relation to such a lease or agreement.

Marginal Citations

M1 1925 c. 20.

^{F40} 37 Compensation where order for new tenancy precluded on certain grounds.

^{F41}(1) Subject to the provisions of this Act, in a case specified in subsection (1A), (1B) or (1C) below (a “compensation case”) the tenant shall be entitled on quitting the holding to recover from the landlord by way of compensation an amount determined in accordance with this section.

(1A) The first compensation case is where on the making of an application by the tenant under section 24(1) of this Act the court is precluded (whether by subsection (1) or subsection (2) of section 31 of this Act) from making an order for the grant of a new tenancy by reason of any of the grounds specified in paragraphs (e), (f) and (g) of section 30(1) of this Act (the “compensation grounds”) and not of any grounds specified in any other paragraph of section 30(1).

(1B) The second compensation case is where on the making of an application under section 29(2) of this Act the court is precluded (whether by section 29(4)(a) or section 31(2) of this Act) from making an order for the grant of a new tenancy by reason of any of the compensation grounds and not of any other grounds specified in section 30(1) of this Act.

(1C) The third compensation case is where—

(a) the landlord’s notice under section 25 of this Act or, as the case may be, under section 26(6) of this Act, states his opposition to the grant of a new tenancy on any of the compensation grounds and not on any other grounds specified in section 30(1) of this Act; and

(b) either—

(i) no application is made by the tenant under section 24(1) of this Act or by the landlord under section 29(2) of this Act; or

(ii) such an application is made but is subsequently withdrawn.]

(2) ^{F42}Subject to ^{F43} ^{F44}the following provisions of this section, compensation under this section”; and] shall be as follows, that is to say,—

(a) where the conditions specified in the next following subsection are satisfied ^{F45}in relation to the whole of the holding]it shall be ^{F46}the product of the appropriate multiplier and] twice the rateable value of the holding,

(b) in any other case it shall be ^{F46}the product of the appropriate multiplier and] the rateable value of the holding.

(3) The said conditions are—

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- (a) that, during the whole of the fourteen years immediately preceding the termination of the current tenancy, premises being or comprised in the holding have been occupied for the purposes of a business carried on by the occupier or for those and other purposes;
- (b) that, if during those fourteen years there was a change in the occupier of the premises, the person who was the occupier immediately after the change was the successor to the business carried on by the person who was the occupier immediately before the change.

[If the conditions specified in subsection (3) above are satisfied in relation to part of
^{F47}(3A) the holding but not in relation to the other part, the amount of compensation shall be the aggregate of sums calculated separately as compensation in respect of each part, and accordingly, for the purpose of calculating compensation in respect of a part any reference in this section to the holding shall be construed as a reference to that part.

(3B) Where section 44(1A) of this Act applies, the compensation shall be determined separately for each part and compensation determined for any part shall be recoverable only from the person who is the owner of an interest in that part which fulfils the conditions specified in section 44(1) of this Act.]

(4) Where the court is precluded from making an order for the grant of a new tenancy under this Part of this Act in [^{F48}a compensation case], the court shall on the application of the tenant certify that fact.

(5) For the purposes of subsection (2) of this section the rateable value of the holding shall be determined as follows:—

- (a) where in the valuation list in force at the date on which the landlord's notice under section 25 or, as the case may be, subsection (6) of section 26 of this Act is given a value is then shown as the annual value (as hereinafter defined) of the holding, the rateable value of the holding shall be taken to be that value;
- (b) where no such value is so shown with respect to the holding but such a value or such values is or are so shown with respect to premises comprised in or comprising the holding or part of it, the rateable value of the holding shall be taken to be such value as is found by a proper apportionment or aggregation of the value or values so shown;
- (c) where the rateable value of the holding cannot be ascertained in accordance with the foregoing paragraphs of this subsection, it shall be taken to be the value which, apart from any exemption from assessment to rates, would on a proper assessment be the value to be entered in the said valuation list as the annual value of the holding;

and any dispute arising, whether in proceedings before the court or otherwise, as to the determination for those purposes of the rateable value of the holding shall be referred to the Commissioners of Inland Revenue for decision by a valuation officer.

An appeal shall lie to the [^{F49}Upper Tribunal] from any decision of a valuation officer under this subsection, but subject thereto any such decision shall be final.

[If part of the holding is domestic property, as defined in section 66 of the Local
^{F50}(5A) Government Finance Act 1988,—

- (a) the domestic property shall be disregarded in determining the rateable value of the holding under subsection (5) of this section; and
- (b) if, on the date specified in subsection (5)(a) of this section, the tenant occupied the whole or any part of the domestic property, the amount of compensation

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to which he is entitled under subsection (1) of this section shall be increased by the addition of a sum equal to his reasonable expenses in removing from the domestic property.

- (5B) Any question as to the amount of the sum referred to in paragraph (b) of subsection (5A) of this section shall be determined by agreement between the landlord and the tenant or, in default of agreement, by the court.
- (5C) If the whole of the holding is domestic property, as defined in section 66 of the Local Government Finance Act 1988, for the purposes of subsection (2) of this section the rateable value of the holding shall be taken to be an amount equal to the rent at which it is estimated the holding might reasonably be expected to let from year to year if the tenant undertook to pay all usual tenant's rates and taxes and to bear the cost of the repairs and insurance and the other expenses (if any) necessary to maintain the holding in a state to command that rent.
- (5D) The following provisions shall have effect as regards a determination of an amount mentioned in subsection (5C) of this section—
- (a) the date by reference to which such a determination is to be made is the date on which the landlord's notice under section 25 or, as the case may be, subsection (6) of section 26 of this Act is given;
 - (b) any dispute arising, whether in proceedings before the court or otherwise, as to such a determination shall be referred to the Commissioners of Inland Revenue for decision by a valuation officer;
 - (c) an appeal shall lie to the [^{F51}Upper Tribunal] from such a decision but, subject to that, such a decision shall be final.]

[Any deduction made under paragraph 2A of Schedule 6 to the Local Government
^{F52}(5E) Finance Act 1988 (deduction from valuation of hereditaments used for breeding horses etc.) shall be disregarded, to the extent that it relates to the holding, in determining the rateable value of the holding under subsection (5) of this section.]

(6) The Commissioners of Inland Revenue may by statutory instrument make rules prescribing the procedure in connection with references under this section.

(7) In this section—

the reference to the termination of the current tenancy is a reference to the date of termination specified in the landlord's notice under section 25 of this Act or, as the case may be, the date specified in the tenant's request for a new tenancy as the date from which the new tenancy is to begin;

the expression “ annual value ” means rateable value except that where the rateable value differs from the net annual value the said expression means net annual value;

the expression “ valuation officer ” means any officer of the Commissioners of Inland Revenue for the time being authorised by a certificate of the Commissioners to act in relation to a valuation list.]

[^{F53}(8) In subsection (2) of this section “ the appropriate multiplier ” means such multiplier as the Secretary of State may by order made by statutory instrument prescribe [^{F54} and different multipliers may be so prescribed in relation to different cases] .

(9) A statutory instrument containing an order under subsection (8) of this section shall be subject to annulment in pursuance of a resolution of either House of Parliament.]

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Textual Amendments

- F40** S. 37 substituted by virtue of [Law of Property Act 1969 \(c. 59\)](#) , s. 15 , [Sch. 1](#)
- F41** S. 37(1)-(1C) substituted (1.6.2004) for s. 37(1) by [The Regulatory Reform \(Business Tenancies\) \(England and Wales\) Order 2003 \(S.I. 2003/3096\)](#) , [art. 19\(1\)](#)
- F42** Words inserted by [Local Government and Housing Act 1989 \(c.42, SIF 75:1\)](#) , s. 149 , [Sch. 7 para. 2\(2\)](#) (subject to savings in [paras. 3 , 4](#))
- F43** Word substituted by [S.I. 1990/1285](#) , art. 2 , [Sch. Pt. I para. 4 \(a\)](#)
- F44** Words in s. 37(2) substituted (1.6.2004) by [Regulatory Reform \(Business Tenancies\) \(England and Wales\) Order 2003 \(S.I. 2003/3096\)](#) , arts. 1(3) , [19\(2\)\(a\)](#)
- F45** Words in s. 37(2)(a) inserted (1.6.2004) by [Regulatory Reform \(Business Tenancies\) \(England and Wales\) Order 2003 \(S.I. 2003/3096\)](#) , arts. 1(3) , [19\(2\)\(b\)](#)
- F46** Words inserted by [Local Government, Planning and Land Act 1980 \(c. 65, SIF 103:1, 2\)](#) , s. 193 , [Sch. 33 para. 4\(1\)](#)
- F47** S. 37(3A) inserted (1.6.2004) by [Regulatory Reform \(Business Tenancies\) \(England and Wales\) Order 2003 \(S.I. 2003/3096\)](#) , arts. 1(3) , [19\(3\)](#)
- F48** Words in s. 37(4) substituted (1.6.2004) by [Regulatory Reform \(Business Tenancies\) \(England and Wales\) Order 2003 \(S.I. 2003/3096\)](#) , arts. 1(3) , [19\(4\)](#)
- F49** Words in s. 37(5) substituted (1.6.2009) by [The Transfer of Tribunal Functions \(Lands Tribunal and Miscellaneous Amendments\) Order 2009 \(S.I. 2009/1307\)](#) , art. 1 , [Sch. 1 para. 20](#) (with [Sch. 5](#))
- F50** S. 37(5A)–(5D) inserted by [Local Government and Housing Act 1989 \(c. 42, SIF 75:1\)](#) , s. 149 , [Sch. 7 para. 2\(3\)](#) (subject to savings in [paras. 3 , 4](#))
- F51** Words in s. 37(5D)(c) substituted (1.6.2009) by [The Transfer of Tribunal Functions \(Lands Tribunal and Miscellaneous Amendments\) Order 2009 \(S.I. 2009/1307\)](#) , art. 1 , [Sch. 1 para. 20](#) (with [Sch. 5](#))
- F52** S. 37(5E) inserted by [S.I. 1990/1285](#) , art. 2 , [Sch. Pt. I para. 4\(b\)](#)
- F53** S. 37(8)(9) added by [Local Government, Planning and Land Act 1980 \(c. 65\)](#) , [Sch. 33 para. 4\(2\)](#)
- F54** Words added by [Local Government and Housing Act 1989 \(c. 42, SIF 75:1\)](#) , s. 149 , [Sch. 7 para. 2\(4\)](#) (subject to savings in [paras. 3 , 4](#))

Modifications etc. (not altering text)

- C24** S. 37 modified by [Local Government and Housing Act 1989 \(c. 42, SIF 75:1\)](#) , s. 149 , [Sch. 7 para. 4](#)
- C25** S. 37 excluded by [Leasehold Reform Act 1967 \(c. 88\)](#) , [s. 35\(6\)](#) ; restricted by [Land Compensation Act 1973 \(c. 26\)](#) , [s. 37\(4\)](#)

[^{F55}37A. *Compensation for possession obtained by misrepresentation*

- (1) Where the court—
- (a) makes an order for the termination of the current tenancy but does not make an order for the grant of a new tenancy, or
 - (b) refuses an order for the grant of a new tenancy,
- and it subsequently made to appear to the court that the order was obtained, or the court was induced to refuse the grant, by misrepresentation or the concealment of material facts, the court may order the landlord to pay to the tenant such sum as appears sufficient as compensation for damage or loss sustained by the tenant as the result of the order or refusal.
- (2) Where—
- (a) the tenant has quit the holding—
 - (i) after making but withdrawing an application under section 24(1) of this Act; or
 - (ii) without making such an application; and

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- (b) it is made to appear to the court that he did so by reason of misrepresentation or the concealment of material facts,
the court may order the landlord to pay to the tenant such sum as appears sufficient as compensation for damage or loss sustained by the tenant as the result of quitting the holding.]

Textual Amendments

F55 S. 37A inserted (1.6.2004) by [Regulatory Reform \(Business Tenancies\) \(England and Wales\) Order 2003 \(S.I. 2003/3096\)](#), arts. 1(3), **20**

[^{F56}38] **Restriction on agreements excluding provisions of Part II.**

- (1) Any agreement relating to a tenancy to which this Part of this Act applies (whether contained in the instrument creating the tenancy or not) shall be void (except as provided by [^{F57}section 38A of this Act]) in so far as it purports to preclude the tenant from making an application or request under this Part of this Act or provides for the termination or the surrender of the tenancy in the event of his making such an application or request or for the imposition of any penalty or disability on the tenant in that event.

- (2) Where—

- (a) during the whole of the five years immediately preceding the date on which the tenant under a tenancy to which this Part of this Act applies is to quit the holding, premises being or comprised in the holding have been occupied for the purposes of a business carried on by the occupier or for those and other purposes, and
- (b) if during those five years there was a change in the occupier of the premises, the person who was the occupier immediately after the change was the successor to the business carried on by the person who was the occupier immediately before the change,

any agreement (whether contained in the instrument creating the tenancy or not and whether made before or after the termination of that tenancy) which purports to exclude or reduce compensation under [^{F58}section 37 of this Act] shall to that extent be void, so however that this subsection shall not affect any agreement as to the amount of any such compensation which is made after the right to compensation has accrued.

- (3) In a case not falling within the last foregoing subsection the right to compensation conferred by [^{F58}section 37 of this Act] may be excluded or modified by agreement.

^{F59}(4)

Textual Amendments

F56 S. 38 substituted by virtue of [Law of Property Act 1969 \(c. 59\)](#), s. 15, **Sch. 1**

F57 Words in s. 38(1) substituted (1.6.2004) by [Regulatory Reform \(Business Tenancies\) \(England and Wales\) Order 2003 \(S.I. 2003/3096\)](#), arts. 1(3), **21(1)**

F58 Words in s. 38(2)(3) substituted (1.6.2004) by [Regulatory Reform \(Business Tenancies\) \(England and Wales\) Order 2003 \(S.I. 2003/3096\)](#), art. 1(3), **Sch. 5 para. 4**

F59 S. 38(4) repealed (1.6.2004) by [Regulatory Reform \(Business Tenancies\) \(England and Wales\) Order 2003 \(S.I. 2003/3096\)](#), arts. 1(3), 21(2), **Sch. 6**

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[^{F60}38A. Agreements to exclude provisions of Part 2

- (1) The persons who will be the landlord and the tenant in relation to a tenancy to be granted for a term of years certain which will be a tenancy to which this Part of this Act applies may agree that the provisions of sections 24 to 28 of this Act shall be excluded in relation to that tenancy.
- (2) The persons who are the landlord and the tenant in relation to a tenancy to which this Part of this Act applies may agree that the tenancy shall be surrendered on such date or in such circumstances as may be specified in the agreement and on such terms (if any) as may be so specified.
- (3) An agreement under subsection (1) above shall be void unless—
 - (a) the landlord has served on the tenant a notice in the form, or substantially in the form, set out in Schedule 1 to the Regulatory Reform (Business Tenancies) (England and Wales) Order 2003 (“the 2003 Order”); and
 - (b) the requirements specified in Schedule 2 to that Order are met.
- (4) An agreement under subsection (2) above shall be void unless—
 - (a) the landlord has served on the tenant a notice in the form, or substantially in the form, set out in Schedule 3 to the 2003 Order; and
 - (b) the requirements specified in Schedule 4 to that Order are met.]

Textual Amendments

F60 S. 38A inserted (1.6.2004) by [Regulatory Reform \(Business Tenancies\) \(England and Wales\) Order 2003 \(S.I. 2003/3096\)](#), arts. 1(3), **22(1)**

General and supplementary provisions

39 Saving for compulsory acquisitions.

- (1) ^{F61}
- (2) If the amount of the compensation which would have been payable under section thirty-seven of this Act if the tenancy had come to an end in circumstances giving rise to compensation under that section and the date at which the acquiring authority obtained possession had been the termination of the current tenancy exceeds the amount of [^{F62}the compensation payable under section 121 of the ^{M2}Lands Clauses Consolidation Act 1845 or section 20 of the ^{M3}Compulsory Purchase Act 1965 in the case of a tenancy to which this Part of this Act applies], that compensation shall be increased by the amount of the excess.
- (3) Nothing in section twenty-four of this Act shall affect the operation of the said section one hundred and twenty-one.

Textual Amendments

F61 S. 39(1) repealed by [Land Compensation Act 1973 \(c. 26\)](#), **Sch. 3**

F62 Words substituted by [Land Compensation Act 1973 \(c. 26\)](#), **s. 47(3)**

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Marginal Citations

- M2** 1845 c. 19.
M3 1965 c. 56.

[^{F63}40 Duty of tenants and landlords of business premises to give information to each other.

- (1) Where a person who is an owner of an interest in reversion expectant (whether immediately or not) on a tenancy of any business premises has served on the tenant a notice in the prescribed form requiring him to do so, it shall be the duty of the tenant to give the appropriate person in writing the information specified in subsection (2) below.
- (2) That information is—
 - (a) whether the tenant occupies the premises or any part of them wholly or partly for the purposes of a business carried on by him;
 - (b) whether his tenancy has effect subject to any sub-tenancy on which his tenancy is immediately expectant and, if so—
 - (i) what premises are comprised in the sub-tenancy;
 - (ii) for what term it has effect (or, if it is terminable by notice, by what notice it can be terminated);
 - (iii) what is the rent payable under it;
 - (iv) who is the sub-tenant;
 - (v) (to the best of his knowledge and belief) whether the sub-tenant is in occupation of the premises or of part of the premises comprised in the sub-tenancy and, if not, what is the sub-tenant's address;
 - (vi) whether an agreement is in force excluding in relation to the sub-tenancy the provisions of sections 24 to 28 of this Act; and
 - (vii) whether a notice has been given under section 25 or 26(6) of this Act, or a request has been made under section 26 of this Act, in relation to the sub-tenancy and, if so, details of the notice or request; and
 - (c) (to the best of his knowledge and belief) the name and address of any other person who owns an interest in reversion in any part of the premises.
- (3) Where the tenant of any business premises who is a tenant under such a tenancy as is mentioned in section 26(1) of this Act has served on a reversioner or a reversioner's mortgagee in possession a notice in the prescribed form requiring him to do so, it shall be the duty of the person on whom the notice is served to give the appropriate person in writing the information specified in subsection (4) below.
- (4) That information is—
 - (a) whether he is the owner of the fee simple in respect of the premises or any part of them or the mortgagee in possession of such an owner,
 - (b) if he is not, then (to the best of his knowledge and belief)—
 - (i) the name and address of the person who is his or, as the case may be, his mortgagor's immediate landlord in respect of those premises or of the part in respect of which he or his mortgagor is not the owner in fee simple;

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- (ii) for what term his or his mortgagor’s tenancy has effect and what is the earliest date (if any) at which that tenancy is terminable by notice to quit given by the landlord; and
 - (iii) whether a notice has been given under section 25 or 26(6) of this Act, or a request has been made under section 26 of this Act, in relation to the tenancy and, if so, details of the notice or request;
 - (c) (to the best of his knowledge and belief) the name and address of any other person who owns an interest in reversion in any part of the premises; and
 - (d) if he is a reversioner, whether there is a mortgagee in possession of his interest in the premises and, if so, (to the best of his knowledge and belief) what is the name and address of the mortgagee.
- (5) A duty imposed on a person by this section is a duty—
- (a) to give the information concerned within the period of one month beginning with the date of service of the notice; and
 - (b) if within the period of six months beginning with the date of service of the notice that person becomes aware that any information which has been given in pursuance of the notice is not, or is no longer, correct, to give the appropriate person correct information within the period of one month beginning with the date on which he becomes aware.
- (6) This section shall not apply to a notice served by or on the tenant more than two years before the date on which apart from this Act his tenancy would come to an end by effluxion of time or could be brought to an end by notice to quit given by the landlord.
- (7) Except as provided by section 40A of this Act, the appropriate person for the purposes of this section and section 40A(1) of this Act is the person who served the notice under subsection (1) or (3) above.
- (8) In this section—
- “business premises” means premises used wholly or partly for the purposes of a business;
 - “mortgagee in possession” includes a receiver appointed by the mortgagee or by the court who is in receipt of the rents and profits, and “his mortgagor” shall be construed accordingly;
 - “reversioner” means any person having an interest in the premises, being an interest in reversion expectant (whether immediately or not) on the tenancy;
 - “reversioner’s mortgagee in possession” means any person being a mortgagee in possession in respect of such an interest; and
 - “sub-tenant” includes a person retaining possession of any premises by virtue of the Rent (Agriculture) Act 1976 or the Rent Act 1977 after the coming to an end of a sub-tenancy, and “sub-tenancy” includes a right so to retain possession.]

Textual Amendments

F63 S. 40 substituted (1.6.2004) by [Regulatory Reform \(Business Tenancies\) \(England and Wales\) Order 2003 \(S.I. 2003/3096\)](#), arts. 1(3), 23

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[^{F64}40A. Duties in transfer cases

- (1) If a person on whom a notice under section 40(1) or (3) of this Act has been served has transferred his interest in the premises or any part of them to some other person and gives the appropriate person notice in writing—
- (a) of the transfer of his interest; and
 - (b) of the name and address of the person to whom he transferred it,
- on giving the notice he ceases in relation to the premises or (as the case may be) to that part to be under any duty imposed by section 40 of this Act.
- (2) If—
- (a) the person who served the notice under section 40(1) or (3) of this Act (“the transferor”) has transferred his interest in the premises to some other person (“the transferee”); and
 - (b) the transferor or the transferee has given the person required to give the information notice in writing—
 - (i) of the transfer; and
 - (ii) of the transferee’s name and address,
 the appropriate person for the purposes of section 40 of this Act and subsection (1) above is the transferee.
- (3) If—
- (a) a transfer such as is mentioned in paragraph (a) of subsection (2) above has taken place; but
 - (b) neither the transferor nor the transferee has given a notice such as is mentioned in paragraph (b) of that subsection,
- any duty imposed by section 40 of this Act may be performed by giving the information either to the transferor or to the transferee.]

Textual Amendments

F64 S. 40A inserted (1.6.2004) by [Regulatory Reform \(Business Tenancies\) \(England and Wales\) Order 2003 \(S.I. 2003/3096\)](#), arts. 1(3), 24

[^{F65}40B. Proceedings for breach of duties to give information

A claim that a person has broken any duty imposed by section 40 of this Act may be made the subject of civil proceedings for breach of statutory duty; and in any such proceedings a court may order that person to comply with that duty and may make an award of damages.]

Textual Amendments

F65 S. 40B inserted (1.6.2004) by [Regulatory Reform \(Business Tenancies\) \(England and Wales\) Order 2003 \(S.I. 2003/3096\)](#), arts. 1(3), 24

41 Trusts.

- (1) Where a tenancy is held on trust, occupation by all or any of the beneficiaries under the trust, and the carrying on of a business by all or any of the beneficiaries, shall be

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treated for the purposes of section twenty-three of this Act as equivalent to occupation or the carrying on of a business by the tenant; and in relation to a tenancy to which this Part of this Act applies by virtue of the foregoing provisions of this subsection—

- (a) references (however expressed) in this Part of this Act and in the Ninth Schedule to this Act to the business of, or to carrying on of business, use, occupation or enjoyment by, the tenant shall be construed as including references to the business of, or to carrying on of business, use, occupation or enjoyment by, the beneficiaries or beneficiary;
 - (b) the reference in paragraph (d) of [^{F66}subsection (1) of] section thirty-four of this Act to the tenant shall be construed as including the beneficiaries or beneficiary; and
 - (c) a change in the persons of the trustees shall not be treated as a change in the person of the tenant.
- (2) Where the landlord's interest is held on trust the references in paragraph (g) of subsection (1) of section thirty of this Act to the landlord shall be construed as including references to the beneficiaries under the trust or any of them; but, except in the case of a trust arising under a will or on the intestacy of any person, the reference in subsection (2) of that section to the creation of the interest therein mentioned shall be construed as including the creation of the trust.

[^{F67}(3) Where a tenancy is held on trust, section 43ZA(2) has effect as if—

- (a) paragraph (b) were omitted, and
- (b) the condition in paragraph (c)(i) were a condition that the terms of the tenancy require at least one individual who is a trustee or a beneficiary under the trust to occupy the dwelling-house as a home (whether or not as that individual's only or principal home).]

Textual Amendments

F66 Words inserted by [Law of Property Act 1969 \(c. 59\), s. 1\(2\)](#)

F67 [S. 41\(3\)](#) inserted (1.10.2015 for E., 1.10.2015 for W.) by [Small Business, Enterprise and Employment Act 2015 \(c. 26\), ss. 36\(1\), 164\(1\)](#) (with [s. 36\(3\)](#)); [S.I. 2015/1689, reg. 2\(b\)](#); [S.I. 2015/1710, reg. 2\(b\)](#)

[^{F68}41A Partnerships.

- (1) The following provisions of this section shall apply where—
- (a) a tenancy is held jointly by two or more persons (in this section referred to as the joint tenants); and
 - (b) the property comprised in the tenancy is or includes premises occupied for the purposes of a business; and
 - (c) the business (or some other business) was at some time during the existence of the tenancy carried on in partnership by all the persons who were then the joint tenants or by those and other persons and the joint tenants' interest in the premises was then partnership property; and
 - (d) the business is carried on (whether alone or in partnership with other persons) by one or some only of the joint tenants and no part of the property comprised in the tenancy is occupied, in right of the tenancy, for the purposes of a business carried on (whether alone or in partnership with other persons) by the other or others.

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- (2) In the following provisions of this section those of the joint tenants who for the time being carry on the business are referred to as the business tenants and the others as the other joint tenants.
- (3) Any notice given by the business tenants which, had it been given by all the joint tenants, would have been—
 - (a) a tenant's request for a new tenancy made in accordance with section 26 of this Act; or
 - (b) a notice under subsection (1) or subsection (2) of section 27 of this Act;
 shall be treated as such if it states that it is given by virtue of this section and sets out the facts by virtue of which the persons giving it are the business tenants; and references in those sections and in section 24A of this Act to the tenant shall be construed accordingly.
- (4) A notice given by the landlord to the business tenants which, had it been given to all the joint tenants, would have been a notice under section 25 of this Act shall be treated as such a notice, and references in that section to the tenant shall be construed accordingly.
- (5) An application under section 24(1) of this Act for a new tenancy may, instead of being made by all the joint tenants, be made by the business tenants alone; and where it is so made—
 - (a) this Part of this Act shall have effect, in relation to it, as if the references therein to the tenant included references to the business tenants alone; and
 - (b) the business tenants shall be liable, to the exclusion of the other joint tenants, for the payment of rent and the discharge of any other obligation under the current tenancy for any rental period beginning after the date specified in the landlord's notice under section 25 of this Act or, as the case may be, beginning on or after the date specified in their request for a new tenancy.
- (6) Where the court makes an order under ^{F69}section 29 of this Act for the grant of a new tenancy it may order the grant to be made to the business tenants or to them jointly] with the persons carrying on the business in partnership with them, and may order the grant to be made subject to the satisfaction, within a time specified by the order, of such conditions as to guarantors, sureties or otherwise as appear to the court equitable, having regard to the omission of the other joint tenants from the persons who will be the tenants under the new tenancy.
- (7) The business tenants shall be entitled to recover any amount payable by way of compensation under section 37 or section 59 of this Act.]

Textual Amendments

F68 S. 41A inserted by [Law of Property Act 1969 \(c. 59\), s. 9](#)

F69 Words in s. 41A(6) substituted (1.6.2004) by [Regulatory Reform \(Business Tenancies\) \(England and Wales\) Order 2003 \(S.I. 2003/3096\), art. 1\(3\), Sch. 5 para. 5](#)

^{F70}42 Groups of companies.

- (1) For the purposes of this section two bodies corporate shall be taken to be members of a group if and only if one is a subsidiary of the other or both are subsidiaries of a third body corporate^{F71} or the same person has a controlling interest in both].

Status: Point in time view as at 28/04/2022.

Changes to legislation: Landlord and Tenant Act 1954, Part II is up to date with all changes known to be in force on or before 27 June 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)

F72 ... F72 ... F72 ...

- (2) Where a tenancy is held by a member of a group, occupation by another member of the group, and the carrying on of a business by another member of the group, shall be treated for the purposes of section 23 of this Act as equivalent to occupation or the carrying on of a business by the member of the group holding the tenancy; and in relation to a tenancy to which this Part of this Act applies by virtue of the foregoing provisions of this subsection—
- (a) references (however expressed) in this Part of this Act and in the Ninth Schedule to this Act to the business of or to use occupation or enjoyment by the tenant shall be construed as including references to the business of or to use occupation or enjoyment by the said other member;
 - (b) the reference in paragraph (d) of subsection (1) of section 34 of this Act to the tenant shall be construed as including the said other member; and
 - (c) an assignment of the tenancy from one member of the group to another shall not be treated as a change in the person of the tenant.
- (3) Where the landlord's interest is held by a member of a group—
- (a) the reference in paragraph (g) of subsection (1) of section 30 of this Act to intended occupation by the landlord for the purposes of a business to be carried on by him shall be construed as including intended occupation by any member of the group for the purposes of a business to be carried on by that member; and
 - (b) the reference in subsection (2) of that section to the purchase or creation of any interest shall be construed as a reference to a purchase from or creation by a person other than a member of the group.]

Textual Amendments

- F70** S. 42 substituted by virtue of [Law of Property Act 1969 \(c. 59\), s. 15, Sch. 1](#)
- F71** Words in s. 42(1) added (1.6.2004) by [Regulatory Reform \(Business Tenancies\) \(England and Wales\) Order 2003 \(S.I. 2003/3096\), arts. 1\(3\), 16](#)
- F72** Words in s. 42(1) repealed (1.6.2004) by [Regulatory Reform \(Business Tenancies\) \(England and Wales\) Order 2003 \(S.I. 2003/3096\), art. 1\(3\), Sch. 6](#)

43 Tenancies excluded from Part II.

- (1) This Part of this Act does not apply—
- (a) to a tenancy of an agricultural holding ^{F73}[^{F74}which is a tenancy in relation to which the Agricultural Holdings Act 1986 applies or a tenancy which would be a tenancy of an agricultural holding in relation to which that Act applied if subsection (3) of section 2 of that Act]^{F75} did not have effect or, in a case where approval was given under subsection (1) of that section], if that approval had not been given];
 - ^{F76}(aa) to a farm business tenancy;]
 - (b) to a tenancy created by a mining lease;
 - (c)^{F77}
 - ^{F78}[^{F79}(d) to a tenancy of premises licensed for the sale of intoxicating liquor for consumption on the premises, other than—

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- (i) premises which are structurally adapted to be used, and are bona fide used, for a business which comprises one or both of the following, namely, the reception of guests and travellers desiring to sleep on the premises and the carrying on of a restaurant, being a business a substantial proportion of which consists of transactions other than the sale of intoxicating liquor;
 - (ii) premises adapted to be used, and bona fide used, only for one or more of the following purposes, namely, for judicial or public administrative purposes, or as a theatre or place of public or private entertainment, or as public gardens or picture galleries, or for exhibitions, or for any similar purpose to which the holding of the licence is merely ancillary;
 - (iii) premises adapted to be used, and bona fide used, as refreshment rooms at a railway station.]]
- (2) This Part of this Act does not apply to a tenancy granted by reason that the tenant was the holder of an office, appointment or employment from the grantor thereof and continuing only so long as the tenant holds the office, appointment or employment, or terminable by the grantor on the tenant's ceasing to hold it, or coming to an end at a time fixed by reference to the time at which the tenant ceases to hold it:

Provided that this subsection shall not have effect in relation to a tenancy granted after the commencement of this Act unless the tenancy was granted by an instrument in writing which expressed the purpose for which the tenancy was granted.

- [^{F80}(3) This Part of this Act does not apply to a tenancy granted for a term certain not exceeding six months unless—
- (a) the tenancy contains provision for renewing the term or for extending it beyond six months from its beginning; or
 - (b) the tenant has been in occupation for a period which, together with any period during which any predecessor in the carrying on of the business carried on by the tenant was in occupation, exceeds twelve months.]
- [^{F81}(4) This Part does not apply to a tenancy—
- (a) the primary purpose of which is to grant code rights within the meaning of Schedule 3A to the Communications Act 2003 (the electronic communications code), and
 - (b) which is granted after that Schedule comes into force.]

Textual Amendments

- F73** Words added retrospectively by [Agriculture Act 1958 \(c. 71\)](#), [Sch. 1 Pt. I para. 29](#)
- F74** Words in s. 43(1)(a) substituted (1.9.1995) by [1995 c. 8, ss. 40, 41\(2\)](#), [Sch. para. 10\(a\)](#) (with s. 37)
- F75** Words substituted by [Agricultural Holdings Act 1986 \(c. 5, SIF 2:3\)](#), ss. 99, 100, [Sch. 13 para. 3](#), [Sch. 14 para. 21](#)
- F76** S. 43(1)(aa) inserted (1.9.1995) by [1995 c. 8, ss. 40, 41\(2\)](#), [Sch. para. 10\(b\)](#) (with s. 37)
- F77** S. 43(1)(c) repealed by [Housing Act 1980 \(c. 51\)](#), [Sch. 26](#)
- F78** S. 43(1) (d) repealed (in relation to any tenancy entered into on or after 11th July 1989) by [Landlord and Tenant \(Licensed Premises\) Act 1990 \(c. 39, SIF 75:1\)](#), [ss. 1\(1\)\(2\), 2\(2\)\(a\)](#)
- F79** S. 43(1)(d) substituted by [Finance Act 1959 \(c. 58\)](#), [Sch. 2 para. 5](#)
- F80** S. 43(3) substituted by virtue of [Law of Property Act 1969 \(c. 59\)](#), s. 15, [Sch. 1](#) in relation to tenancies granted after 1.1.1970

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F81 S. 43(4) inserted (28.12.2017) by [Digital Economy Act 2017 \(c. 30\)](#), s. 118(6), [Sch. 3 para. 4](#); [S.I. 2017/1286](#), reg. 2(d)

[^{F82}43ZA] Further exclusion of home business tenancies from Part 2

- (1) This Part of this Act does not apply to a home business tenancy.
- (2) A home business tenancy is a tenancy under which—
 - (a) a dwelling-house is let as a separate dwelling,
 - (b) the tenant or, where there are joint tenants, each of them, is an individual, and
 - (c) the terms of the tenancy—
 - (i) require the tenant or, where there are joint tenants, at least one of them, to occupy the dwelling-house as a home (whether or not as that individual's only or principal home),
 - (ii) permit a home business to be carried on in the dwelling-house, or permit the immediate landlord to give consent for a home business to be carried on in the dwelling-house, and
 - (iii) do not permit a business other than a home business to be carried on in the dwelling-house.
- (3) The terms of a tenancy permit the carrying on of a home business if they permit the carrying on of a particular home business, a particular description of home business or any home business.
- (4) A “home business” is a business of a kind which might reasonably be carried on at home.
- (5) A business is not to be treated as a home business if it involves the supply of alcohol for consumption on licensed premises which form all or part of the dwelling-house.
- (6) The appropriate national authority may by regulations prescribe cases in which businesses are, or are not, to be treated as home businesses.
- (7) Regulations under this section—
 - (a) may include transitional or saving provision,
 - (b) may make different provision for different purposes,
 - (c) are to be made by statutory instrument,
 - (d) may not be made unless—
 - (i) in the case of regulations made by the Secretary of State, a draft of the statutory instrument containing the regulations has been laid before Parliament and approved by a resolution of each House of Parliament,
 - (ii) in the case of regulations made by the Welsh Ministers, a draft of the statutory instrument containing the regulations has been laid before, and approved by a resolution of, the National Assembly for Wales.
- (8) For the purposes of this section, a dwelling-house which is let for mixed residential and business use is capable of being let as a dwelling.
- (9) If, under a tenancy, a dwelling-house is let together with other land, then, for the purposes of this section—
 - (a) if the main purpose of the letting is the provision of a home for the tenant, the other land is to be treated as part of the dwelling-house, and

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- (b) if the main purpose of the letting is not as mentioned in paragraph (a), the tenancy is to be treated as not being one under which a dwelling-house is let as a separate dwelling.

(10) In this section—

“ the appropriate national authority ” means—

(a) in relation to England, the Secretary of State, and

(b) in relation to Wales, the Welsh Ministers;

“dwelling-house” may be a house or part of a house;

“ let ” includes sub-let;

“ licensed premises ” has the same meaning as in the Licensing Act 2003 (see section 193 of that Act);

“ supply of alcohol ” has the same meaning as in the Licensing Act 2003 (see section 14 of that Act).]

Textual Amendments

F82 S. 43ZA inserted (1.10.2015) by [Small Business, Enterprise and Employment Act 2015 \(c. 26\)](#), **ss. 35(4)**, 164(1) (with s. 35(5)); S.I. 2015/1689, reg. 2(b); S.I. 2015/1710, reg. 2(a)

[^{F83} 43A Jurisdiction of county court to make declaration.

Where the rateable value of the holding is such that the jurisdiction conferred on the court by any other provision of this Part of this Act is, by virtue of section 63 of this Act, exercisable by the county court, the county court shall have jurisdiction (but without prejudice to the jurisdiction of the High Court) to make any declaration as to any matter arising under this Part of this Act, whether or not any other relief is sought in the proceedings.]

Textual Amendments

F83 S. 43A inserted by [Law of Property Act 1969 \(c. 59\)](#), **s. 13**

Modifications etc. (not altering text)

C26 S. 43A amended by [S.I. 1990/776](#), **arts. 2(2)**, 4(1)(d)

[^{F84} 44 Meaning of the landlord in Part II, and provisions as to mesne landlords, etc.

- (1) Subject to [^{F85} subsections (1A) and (2) below,], in this Part of this Act the expression “the landlord”, in relation to a tenancy (in this section referred to as “ the relevant tenancy ”), means the person (whether or not he is the immediate landlord) who is the owner of that interest in the property comprised in the relevant tenancy which for the time being fulfils the following conditions, that is to say—
- (a) that it is an interest in reversion expectant (whether immediately or not) on the termination of the relevant tenancy, and
- (b) that it is either the fee simple or a tenancy which will not come to an end within fourteen months by effluxion of time and, if it is such a tenancy, that no notice has been given by virtue of which it will come to an end within fourteen

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months or any further time by which it may be continued under section 36(2) or section 64 of this Act,

and is not itself in reversion expectant (whether immediately or not) on an interest which fulfils those conditions.

[The reference in subsection (1) above to a person who is the owner of an interest^{F86}(1A) such as is mentioned in that subsection is to be construed, where different persons own such interests in different parts of the property, as a reference to all those persons collectively.]

(2) References in this Part of this Act to a notice to quit given by the landlord are references to a notice to quit given by the immediate landlord.

(3) The provisions of the Sixth Schedule to this Act shall have effect for the application of this Part of this Act to cases where the immediate landlord of the tenant is not the owner of the fee simple in respect of the holding.]

Textual Amendments
F84 S. 44 substituted by virtue of [Law of Property Act 1969 \(c. 59\), s. 15, Sch. 1](#)
F85 Words in s. 44(1) substituted (1.6.2004) by [Regulatory Reform \(Business Tenancies\) \(England and Wales\) Order 2003 \(S.I. 2003/3096\)](#), arts. 1(3), **27(1)**
F86 S. 44(1A) inserted (1.6.2004) by [Regulatory Reform \(Business Tenancies\) \(England and Wales\) Order 2003 \(S.I. 2003/3096\)](#), arts. 1(3), **27(2)**

45^{F87}

Textual Amendments
F87 Ss. 45, 68(1), Sch. 7 repealed by [Statute Law \(Repeals\) Act 1974 \(c. 22\), Pt. XI](#)

46 Interpretation of Part II.

[^{F88}(1) In this Part of this Act:—

“ business ” has the meaning assigned to it by subsection (2) of section twenty-three of this Act;

[^{F89}“current tenancy” means the tenancy under which the tenant holds for the time being;]

“ date of termination ” has the meaning assigned to it by subsection (1) of section twenty-five of this Act;

subject to the provisions of section thirty-two of this Act, “ the holding ” has the meaning assigned to it by subsection (3) of section twenty-three of this Act;

[^{F90}“interim rent” has the meaning given by section 24A(1) of this Act;]

“ mining lease ” has the same meaning as in the^{M4} Landlord and Tenant Act 1927.]

[^{F91}(2) For the purposes of this Part of this Act, a person has a controlling interest in a company, if, had he been a company, the other company would have been its subsidiary; and in this Part—

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“company” has the meaning given by [^{F92}section 1(1) of the Companies Act 2006]; and

“subsidiary” has the meaning given by [^{F93}section 1159 of that Act].]

Textual Amendments

- F88** S. 46 renumbered (1.6.2004) as s. 46(1) by [Regulatory Reform \(Business Tenancies\) \(England and Wales\) Order 2003 \(S.I. 2003/3096\)](#), arts. 1(3), **17(1)**
- F89** Words in s. 46 substituted (1.6.2004) by [Regulatory Reform \(Business Tenancies\) \(England and Wales\) Order 2003 \(S.I. 2003/3096\)](#), art. 1(3), **Sch. 5 para. 6(a)**
- F90** Words in s. 46 inserted (1.6.2004) by [Regulatory Reform \(Business Tenancies\) \(England and Wales\) Order 2003 \(S.I. 2003/3096\)](#), art. 1(3), **Sch. 5 para. 6(b)**
- F91** S. 46(2) added (1.6.2004) by [Regulatory Reform \(Business Tenancies\) \(England and Wales\) Order 2003 \(S.I. 2003/3096\)](#), arts. 1(3), **17(2)**
- F92** Words in s. 46(2) substituted (1.10.2009) by [The Companies Act 2006 \(Consequential Amendments, Transitional Provisions and Savings\) Order 2009 \(S.I. 2009/1941\)](#), art. 1(2), **Sch. 1 para. 7(a)** (with art. 10)
- F93** Words in s. 46(2) substituted (1.10.2009) by [The Companies Act 2006 \(Consequential Amendments, Transitional Provisions and Savings\) Order 2009 \(S.I. 2009/1941\)](#), art. 1(2), **Sch. 1 para. 7(b)** (with art. 10)

Marginal Citations

- M4** 1927 c. 36.

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