



# Landlord and Tenant Act 1954

1954 CHAPTER 56 2 and 3 Eliz 2

## PART II

SECURITY OF TENURE FOR BUSINESS, PROFESSIONAL AND OTHER TENANTS

*Application to court for new tenancies*

### [<sup>F1</sup>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 [<sup>F2</sup>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 [<sup>F3</sup>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.

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**Changes to legislation:** *Landlord and Tenant Act 1954, Section 38 is up to date with all changes known to be in force on or before 11 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) View outstanding changes*

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(3) In a case not falling within the last foregoing subsection the right to compensation conferred by [<sup>F3</sup>section 37 of this Act] may be excluded or modified by agreement.

<sup>F4</sup>(4)] .....

#### **Textual Amendments**

- F1** S. 38 substituted by virtue of [Law of Property Act 1969 \(c. 59\)](#), s. 15, **Sch. 1**
- F2** 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)**
- F3** 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**
- F4** 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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**Changes and effects yet to be applied to the whole Act associated Parts and Chapters:**

Whole provisions yet to be inserted into this Act (including any effects on those provisions):

- s. 34(5) inserted by [2022 c. 46 s. 61\(5\)](#)
- s. 34A inserted by [2022 c. 46 s. 61\(2\)](#)
- s. 34B34C inserted by [2022 c. 46 s. 63](#)
- s. 63(2A)-(2C) inserted by [2022 c. 46 s. 65](#)