

2003 No. 1989

LANDLORD AND TENANT

The Leasehold Reform (Enfranchisement and Extension)  
(Amendment) (England) Regulations 2003

*Made* - - - - - 4th August 2003

*Laid before Parliament* 11th August 2003

*Coming into force* - - 30th September 2003

The Secretary of State, in exercise of the powers conferred on him by section 22(2) of the Leasehold Reform Act 1967(a), and all other powers enabling him in that behalf, hereby makes the following Regulations:

**Citation and commencement**

1. These Regulations may be cited as the Leasehold Reform (Enfranchisement and Extension) (Amendment) (England) Regulations 2003 and shall come into force on 30th September 2003.

**Application**

2. These Regulations apply only—
- (a) in respect of premises in England;
  - (b) to cases where a notice under Part 1 of the Leasehold Reform Act 1967 (tenant’s notice of desire to have or claim to be entitled to acquire the freehold or an extended lease) is given on or after the date these Regulations come into force.

**Amendments**

3. The Leasehold Reform (Enfranchisement and Extension) Regulations 1967(b) shall be amended as follows—
- (a) in paragraph 2 of Part 1 of the Schedule, after the words “tenancy and” insert “, in a case to which paragraph 2A applies,”;
  - (b) after that paragraph insert—

“2A. This paragraph applies where—

    - (a) the tenancy in question is a business tenancy; or
    - (b) a flat forming part of the house is let to a person who is a qualifying tenant for the purposes of Chapter 1 or 2 of Part 1 of the Leasehold Reform, Housing and Urban Development Act 1993,”;
  - (c) in paragraph 1 of Part 2 of the Schedule after the words “tenancy and” insert “, in a case to which paragraph 1A applies,”;

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(a) 1967 c. 88. Section 22(2) was amended by the Transfer of Functions (Lord Chancellor and Secretary of State) Order 1974. S.I. 1974/1896. The Secretary of State can exercise the power under this section only in relation to England: *see* article 2(2) of, and Schedule 1 to, the National Assembly for Wales (Transfer of Functions) Order 1999 (S.I. 1999/672).  
(b) S.I. 1967/1879, to which there are amendments not relevant to these Regulations.

(d) after that paragraph insert—

“1A. This paragraph applies where—

- (a) the tenancy in question is a business tenancy; or
- (b) a flat forming part of the house is let to a person who is a qualifying tenant for the purposes of Chapter 1 or 2 of Part 1 of the Leasehold Reform, Housing and Urban Development Act 1993.”.

Signed by authority of the First Secretary of State

4th August 2003

*Keith Hill*  
Minister of State,  
Office of the Deputy Prime Minister

## **EXPLANATORY NOTE**

*(This note is not part of the Order)*

These Regulations amend the Leasehold Reform (Enfranchisement and Extension) Regulations 1967 which prescribe conditions governing the procedure to be followed in giving effect to a tenancy notice under Part 1 of the Leasehold Reform Act 1967 (“the 1967 Act”), of the tenant’s desire to have the freehold or an extended lease of a house. The Regulations will apply to cases where an application for enfranchisement or lease extension of a house under the 1967 Act is made on or after the date the Regulations come into force.

The amendments are consequential to amendments made to section 1 of the 1967 Act by sections 138 to 140 of the Commonhold and Leasehold Reform Act 2002 (c. 15). Subject to two exceptions, these provisions abolished the residence test (which required the tenant to have occupied the property as his only or principal home for the last twelve months or for periods amounting to three years in the last ten years) for claims for enfranchisement or lease extension and replaced it with a requirement that the tenant has held the lease for two years.

The two exceptions to the abolition of the residence test are: (i) where the tenancy in question is a business tenancy, and (ii) where a flat forming part of the house is let to a tenant who qualifies to exercise the right to collectively enfranchise under the Leasehold Reform, Housing and Urban Development Act 1993 (c. 28). In these cases the tenant making the application under Part 1 of the 1967 Act must have lived in the house as his only or principal home for the last two years or for periods amounting to two years in the last ten years.

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