



# Protection from Eviction Act 1977

## 1977 CHAPTER 43

### PART I

#### UNLAWFUL EVICTION AND HARASSMENT

#### **1 Unlawful eviction and harassment of occupier.**

- (1) In this section “residential occupier”, in relation to any premises, means a person occupying the premises as a residence, whether under a contract or by virtue of any enactment or rule of law giving him the right to remain in occupation or restricting the right of any other person to recover possession of the premises.
- (2) If any person unlawfully deprives the residential occupier of any premises of his occupation of the premises or any part thereof, or attempts to do so, he shall be guilty of an offence unless he proves that he believed, and had reasonable cause to believe, that the residential occupier had ceased to reside in the premises.
- (3) If any person with intent to cause the residential occupier of any premises—
  - (a) to give up the occupation of the premises or any part thereof; or
  - (b) to refrain from exercising any right or pursuing any remedy in respect of the premises or part thereof;does acts [<sup>F1</sup>likely] to interfere with the peace or comfort of the residential occupier or members of his household, or persistently withdraws or withholds services reasonably required for the occupation of the premises as a residence, he shall be guilty of an offence.

[<sup>F2</sup>(3A) Subject to subsection (3B) below, the landlord of a residential occupier or an agent of the landlord shall be guilty of an offence if—

- (a) he does acts likely to interfere with the peace or comfort of the residential occupier or members of his household, or
- (b) he persistently withdraws or withholds services reasonably required for the occupation of the premises in question as a residence,

and (in either case) he knows, or has reasonable cause to believe, that that conduct is likely to cause the residential occupier to give up the occupation of the whole or

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part of the premises or to refrain from exercising any right or pursuing any remedy in respect of the whole or part of the premises.

- (3B) A person shall not be guilty of an offence under subsection (3A) above if he proves that he had reasonable grounds for doing the acts or withdrawing or withholding the services in question.
- (3C) In subsection (3A) above “landlord”, in relation to a residential occupier of any premises, means the person who, but for—
- (a) the residential occupier’s right to remain in occupation of the premises, or
  - (b) a restriction on the person’s right to recover possession of the premises,
- would be entitled to occupation of the premises and any superior landlord under whom that person derives title.]
- (4) A person guilty of an offence under this section shall be liable—
- (a) on summary conviction, to a fine not exceeding [<sup>F3</sup>the prescribed sum] or to imprisonment for a term not exceeding 6 months or to both;
  - (b) on conviction on indictment, to a fine or to imprisonment for a term not exceeding 2 years or to both.
- (5) Nothing in this section shall be taken to prejudice any liability or remedy to which a person guilty of an offence thereunder may be subject in civil proceedings.
- (6) Where an offence under this section committed by a body corporate is proved to have been committed with the consent or connivance of, or to be attributable to any neglect on the part of, any director, manager or secretary or other similar officer of the body corporate or any person who was purporting to act in any such capacity, he as well as the body corporate shall be guilty of that offence and shall be liable to be proceeded against and punished accordingly.

#### Textual Amendments

- F1** Word in s. 1(3) substituted (with transitional provision) by [Housing Act 1988 \(c. 50, SIF 75:1\), s. 29\(1\)](#) (with s. 44(2)(b))
- F2** S. 1(3A)-(3C) inserted by [Housing Act 1988 \(c. 50, SIF 75:1\), s. 29\(2\)](#) (with s. 44(2)(b))
- F3** S. 1(4)(a): the maximum fine which may be imposed on summary conviction shall be the prescribed sum by virtue of [Magistrates' Courts Act 1980 \(c. 43\), s. 32\(2\)](#)

## 2 Restriction on re-entry without due process of law.

Where any premises are let as a dwelling on a lease which is subject to a right of re-entry or forfeiture it shall not be lawful to enforce that right otherwise than by proceedings in the court while any person is lawfully residing in the premises or part of them.

## 3 Prohibition of eviction without due process of law.

- (1) Where any premises have been let as a dwelling under a tenancy which is [<sup>F4</sup>neither a statutorily protected tenancy nor an excluded tenancy] and—
- (a) the tenancy (in this section referred to as the former tenancy) has come to an end, but
  - (b) the occupier continues to reside in the premises or part of them,

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it shall not be lawful for the owner to enforce against the occupier, otherwise than by proceedings in the court, his right to recover possession of the premises.

(2) In this section “the occupier”, in relation to any premises, means any person lawfully residing in the premises or part of them at the termination of the former tenancy.

[<sup>F5</sup>(2A) Subsections (1) and (2) above apply in relation to any restricted contract (within the meaning of the Rent Act 1977) which—

- (a) creates a licence; and
- (b) is entered into after the commencement of section 69 of the Housing Act 1980; as they apply in relation to a restricted contract which creates a tenancy.]

[<sup>F6</sup>(2B) Subsections (1) and (2) above apply in relation to any premises occupied as a dwelling under a licence, other than an excluded licence, as they apply in relation to premises let as a dwelling under a tenancy, and in those subsections the expressions “let” and “tenancy” shall be construed accordingly.

(2C) References in the preceding provisions of this section and section 4(2A) below to an excluded tenancy do not apply to—

- (a) a tenancy entered into before the date on which the Housing Act 1988 came into force, or
- (b) a tenancy entered into on or after that date but pursuant to a contract made before that date,

but, subject to that, “excluded tenancy” and “excluded licence” shall be construed in accordance with section 3A below.]

(3) This section shall, with the necessary modifications, apply where the owner’s right to recover possession arises on the death of the tenant under a statutory tenancy within the meaning of the <sup>M1</sup>Rent Act 1977 or the <sup>M2</sup>Rent (Agriculture) Act 1976.

#### Textual Amendments

**F4** Words substituted by [Housing Act 1988 \(c. 50, SIF 75:1\)](#), **ss. 30(1), 44(2)(b)**

**F5** [S. 3\(2A\)](#) inserted by [Housing Act 1980 \(c. 51, SIF 61\)](#), **s. 69(1)**

**F6** [S. 3\(2B\)–\(2C\)](#) inserted by [Housing Act 1988 \(c. 50, SIF 75:1\)](#), **ss. 30(2), 44(2)(b)**

#### Marginal Citations

**M1** [1977 c. 42.](#)

**M2** [1976 c. 80.](#)

### [<sup>F7</sup>3A Excluded tenancies and licences.

(1) Any reference in this Act to an excluded tenancy or an excluded licence is a reference to a tenancy or licence which is excluded by virtue of any of the following provisions of this section.

(2) A tenancy or licence is excluded if—

- (a) under its terms the occupier shares any accommodation with the landlord or licensor; and
- (b) immediately before the tenancy or licence was granted and also at the time it comes to an end, the landlord or licensor occupied as his only or principal

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home premises of which the whole or part of the shared accommodation formed part.

- (3) A tenancy or licence is also excluded if—
- (a) under its terms the occupier shares any accommodation with a member of the family of the landlord or licensor;
  - (b) immediately before the tenancy or licence was granted and also at the time it comes to an end, the member of the family of the landlord or licensor occupied as his only or principal home premises of which the whole or part of the shared accommodation formed part; and
  - (c) immediately before the tenancy or licence was granted and also at the time it comes to an end, the landlord or licensor occupied as his only or principal home premises in the same building as the shared accommodation and that building is not a purpose-built block of flats.
- (4) For the purposes of subsections (2) and (3) above, an occupier shares accommodation with another person if he has the use of it in common with that person (whether or not also in common with others) and any reference in those subsections to shared accommodation shall be construed accordingly, and if, in relation to any tenancy or licence, there is at any time more than one person who is the landlord or licensor, any reference in those subsections to the landlord or licensor shall be construed as a reference to any one of those persons.
- (5) In subsections (2) to (4) above—
- (a) “accommodation” includes neither an area used for storage nor a staircase, passage, corridor or other means of access;
  - (b) “occupier” means, in relation to a tenancy, the tenant and, in relation to a licence, the licensee; and
  - (c) “purpose-built block of flats” has the same meaning as in Part III of Schedule 1 to the Housing Act 1988;
- and section 113 of the Housing Act <sup>M3</sup>1985 shall apply to determine whether a person who is for the purposes of subsection (3) above a member of another’s family as it applies for the purposes of Part IV of that Act.
- (6) A tenancy or licence is excluded if it was granted as a temporary expedient to a person who entered the premises in question or any other premises as a trespasser (whether or not, before the beginning of that tenancy or licence, another tenancy or licence to occupy the premises or any other premises had been granted to him).
- (7) A tenancy or licence is excluded if—
- (a) it confers on the tenant or licensee the right to occupy the premises for a holiday only; or
  - (b) it is granted otherwise than for money or money’s worth.
- (8) A licence is excluded if it confers rights of occupation in a hostel, within the meaning of the Housing Act <sup>M4</sup>1985, which is provided by—
- (a) the council of a county, district or London Borough, the Common Council of the City of London, the Council of the Isles of Scilly, the Inner London Education Authority, a joint authority within the meaning of the Local Government Act <sup>M5</sup>1985 or a residuary body within the meaning of that Act;
  - (b) a development corporation within the meaning of the New Towns Act <sup>M6</sup>1981;
  - (c) the Commission for the New Towns;

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- (d) an urban development corporation established by an order under section 135 of the Local Government, Planning and Land Act <sup>M7</sup>1980;
  - (e) a housing action trust established under Part III of the Housing Act <sup>M8</sup>1988;
  - (f) the Development Board for Rural Wales;
  - (g) the Housing Corporation or Housing for Wales;
  - (h) a housing trust which is a charity or a registered housing association, within the meaning of the Housing Associations Act <sup>M9</sup>1985; or
  - (i) any other person who is, or who belongs to a class of person which is, specified in an order made by the Secretary of State.
- (9) The power to make an order under subsection (8)(i) above shall be exercisable by statutory instrument which shall be subject to annulment in pursuance of a resolution of either House of Parliament.]

#### Subordinate Legislation Made

**P1** S. 3A(8)(i): s. 3A(8)(i) power exercised by S.I. 1991/1943

#### Textual Amendments

**F7** S. 3A inserted by Housing Act 1988 (c. 50, SIF 75:1), ss. 31, 44(2)(b)

#### Marginal Citations

**M3** 1985 c. 68 (61).

**M4** 1985 c. 68(61).

**M5** 1985 c. 51(81:1).

**M6** 1981 c. 64(123:3).

**M7** 1980 c. 65(123:1, 2).

**M8** 1988 c. 50(61).

**M9** 1985 c. 69(61).

## 4 Special provisions for agricultural employees.

- (1) This section shall apply where the tenant under the former tenancy (within the meaning of section 3 of this Act) occupied the premises under the terms of his employment as a person employed in agriculture, as defined in section 1 of the <sup>M10</sup>Rent (Agriculture) Act 1976, but is not a statutory tenant as defined in that Act.
- (2) In this section “the occupier”, in relation to any premises, means—
- (a) the tenant under the former tenancy; or
  - (b) the widow or widower of the tenant under the former tenancy residing with him at his death or, if the former tenant leaves no such widow or widower, any member of his family residing with him at his death.
- [<sup>F8</sup>(2A) In accordance with section 3(2B) above, any reference in subsections (1) and (2) above to the tenant under the former tenancy includes a reference to the licensee under a licence (other than an excluded licence) which has come to an end (being a licence to occupy premises as a dwelling); and in the following provisions of this section the expressions “tenancy” and “rent” and any other expressions referable to a tenancy shall be construed accordingly.]
- (3) Without prejudice to any power of the court apart from this section to postpone the operation or suspend the execution of an order for possession, if in proceedings by the

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owner against the occupier the court makes an order for the possession of the premises the court may suspend the execution of the order on such terms and conditions, including conditions as to the payment by the occupier of arrears of rent, mesne profits and otherwise as the court thinks reasonable.

- (4) Where the order for possession is made within the period of 6 months beginning with the date when the former tenancy came to an end, then, without prejudice to any powers of the court under the preceding provisions of this section or apart from this section to postpone the operation or suspend the execution of the order for a longer period, the court shall suspend the execution of the order for the remainder of the said period of 6 months unless the court—
- (a) is satisfied either—
    - (i) that other suitable accommodation is, or will within that period be made, available to the occupier; or
    - (ii) that the efficient management of any agricultural land or the efficient carrying on of any agricultural operations would be seriously prejudiced unless the premises are available for occupation by a person employed or to be employed by the owner; or
    - (iii) that greater hardship (being hardship in respect of matters other than the carrying on of such a business as aforesaid) would be caused by the suspension of the order until the end of that period than by its execution within that period; or
    - (iv) that the occupier, or any person residing or lodging with the occupier, has been causing damage to the premises or has been guilty of conduct which is a nuisance or annoyance to persons occupying other premises; and
  - (b) considers that it would be reasonable not to suspend the execution of the order for the remainder of that period.
- (5) Where the court suspends the execution of an order for possession under subsection (4) above it shall do so on such terms and conditions, including conditions as to the payment by the occupier of arrears of rent, mesne profits and otherwise as the court thinks reasonable.
- (6) A decision of the court not to suspend the execution of the order under subsection (4) above shall not prejudice any other power of the court to postpone the operation or suspend the execution of the order for the whole or part of the period of 6 months mentioned in that subsection.
- (7) Where the court has, under the preceding provisions of this section, suspended the execution of an order for possession, it may from time to time vary the period of suspension or terminate it and may vary any terms or conditions imposed by virtue of this section.
- (8) In considering whether or how to exercise its powers under subsection (3) above, the court shall have regard to all the circumstances and, in particular, to—
- (a) whether other suitable accommodation is or can be made available to the occupier;
  - (b) whether the efficient management of any agricultural land or the efficient carrying on of any agricultural operations would be seriously prejudiced unless the premises were available for occupation by a person employed or to be employed by the owner; and

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- (c) whether greater hardship would be caused by the suspension of the execution of the order than by its execution without suspension or further suspension.
- (9) Where in proceedings for the recovery of possession of the premises the court makes an order for possession but suspends the execution of the order under this section, it shall make no order for costs, unless it appears to the court, having regard to the conduct of the owner or of the occupier, that there are special reasons for making such an order.
- (10) Where, in the case of an order for possession of the premises to which subsection (4) above applies, the execution of the order is not suspended under that subsection or, the execution of the order having been so suspended, the suspension is terminated, then, if it is subsequently made to appear to the court that the failure to suspend the execution of the order or, as the case may be, the termination of the suspension was—
- (a) attributable to the provisions of paragraph (a)(ii) of subsection (4), and
  - (b) due to misrepresentation or concealment of material facts by the owner of the premises,

the court may order the owner to pay to the occupier such sum as appears sufficient as compensation for damage or loss sustained by the occupier as a result of that failure or termination.

#### **Textual Amendments**

**F8** S. 4(2A) inserted by [Housing Act 1988 \(c. 50, SIF 75:1\)](#), **ss. 30(3), 44(2)(b)**

#### **Marginal Citations**

**M10** 1976 c. 80.

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