



Housing Act 1988

1988 CHAPTER 50

PART I

RENTED ACCOMMODATION

CHAPTER I

ASSURED TENANCIES

Meaning of assured tenancy etc.

1 Assured tenancies.

- (1) A tenancy under which a dwelling-house is let as a separate dwelling is for the purposes of this Act an assured tenancy if and so long as—
 - (a) the tenant or, as the case may be, each of the joint tenants is an individual; and
 - (b) the tenant or, as the case may be, at least one of the joint tenants occupies the dwelling-house as his only or principal home; and
 - (c) the tenancy is not one which, by virtue of subsection (2) or subsection (6) below, cannot be an assured tenancy.
- (2) Subject to subsection (3) below, if and so long as a tenancy falls within any paragraph in Part I of Schedule 1 to this Act, it cannot be an assured tenancy; and in that Schedule—
 - (a) “tenancy” means a tenancy under which a dwelling-house is let as a separate dwelling;
 - (b) Part II has effect for determining the rateable value of a dwelling-house for the purposes of Part I; and
 - (c) Part III has effect for supplementing paragraph 10 in Part I.

[^{F1}(2A) The Secretary of State may by order replace any amount referred to in paragraphs 2 and 3A of Schedule 1 to this Act by such amount as is specified in the order; and such

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an order shall be made by statutory instrument which shall be subject to annulment in pursuance of a resolution of either House of Parliament.]

- (3) Except as provided in Chapter V below, at the commencement of this Act, a tenancy—
- (a) under which a dwelling-house was then let as a separate dwelling, and
 - (b) which immediately before that commencement was an assured tenancy for the purposes of sections 56 to 58 of the ^{M1}Housing Act 1980 (tenancies granted by approved bodies),

shall become an assured tenancy for the purposes of this Act.

- (4) In relation to an assured tenancy falling within subsection (3) above—
- (a) Part I of Schedule 1 to this Act shall have effect, subject to subsection (5) below, as if it consisted only of paragraphs 11 and 12; and
 - (b) sections 56 to 58 of the Housing Act 1980 (and Schedule 5 to that Act) shall not apply after the commencement of this Act.

- (5) In any case where—
- (a) immediately before the commencement of this Act the landlord under a tenancy is a fully mutual housing association, and
 - (b) at the commencement of this Act the tenancy becomes an assured tenancy by virtue of subsection (3) above,

then, so long as that association remains the landlord under that tenancy (and under any statutory periodic tenancy which arises on the coming to an end of that tenancy), paragraph 12 of Schedule 1 to this Act shall have effect in relation to that tenancy with the omission of sub-paragraph (1)(h).

- (6) If, in pursuance of its duty under—
- (a) section 63 of the ^{M2}Housing Act 1985 (duty to house pending inquiries in case of apparent priority need),
 - (b) section 65(3) of that Act (duty to house temporarily person found to have priority need but to have become homeless intentionally), or
 - (c) section 68(1) of that Act (duty to house pending determination whether conditions for referral of application are satisfied),

a local housing authority have made arrangements with another person to provide accommodation, a tenancy granted by that other person in pursuance of the arrangements to a person specified by the authority cannot be an assured tenancy before the expiry of the period of twelve months beginning with the date specified in subsection (7) below unless, before the expiry of that period, the tenant is notified by the landlord (or, in the case of joint landlords, at least one of them) that the tenancy is to be regarded as an assured tenancy.

- (7) The date referred to in subsection (6) above is the date on which the tenant received the notification required by section 64(1) of the ^{M3}Housing Act 1985 (notification of decision on question of homelessness or threatened homelessness) or, if he received a notification under section 68(3) of that Act (notification of which authority has duty to house), the date on which he received that notification.

Textual Amendments

F1 S. 1(2A) inserted by S.I. 1990/434, reg. 2, Sch. para. 27

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Marginal Citations

- M1** 1980 c. 51.
M2 1985 c. 68.
M3 1985 c.68.

2 Letting of a dwelling-house together with other land.

- (1) If, under a tenancy, a dwelling-house is let together with other land, then, for the purposes of this Part of this Act,—
- (a) if and so long as the main purpose of the letting is the provision of a home for the tenant or, where there are joint tenants, at least one of them, the other land shall be treated as part of the dwelling-house; and
 - (b) if and so long as the main purpose of the letting is not as mentioned in paragraph (a) above, the tenancy shall be treated as not being one under which a dwelling-house is let as a separate dwelling.
- (2) Nothing in subsection (1) above affects any question whether a tenancy is precluded from being an assured tenancy by virtue of any provision of Schedule 1 to this Act.

3 Tenant sharing accommodation with persons other than landlord.

- (1) Where a tenant has the exclusive occupation of any accommodation (in this section referred to as “the separate accommodation”) and—
- (a) the terms as between the tenant and his landlord on which he holds the separate accommodation include the use of other accommodation (in this section referred to as “the shared accommodation”) in common with another person or other persons, not being or including the landlord, and
 - (b) by reason only of the circumstances mentioned in paragraph (a) above, the separate accommodation would not, apart from this section, be a dwelling-house let on an assured tenancy,
- the separate accommodation shall be deemed to be a dwelling-house let on an assured tenancy and the following provisions of this section shall have effect.
- (2) For the avoidance of doubt it is hereby declared that where, for the purpose of determining the rateable value of the separate accommodation, it is necessary to make an apportionment under Part II of Schedule 1 to this Act, regard is to be had to the circumstances mentioned in subsection (1)(a) above.
- (3) While the tenant is in possession of the separate accommodation, any term of the tenancy terminating or modifying, or providing for the termination or modification of, his right to the use of any of the shared accommodation which is living accommodation shall be of no effect.
- (4) Where the terms of the tenancy are such that, at any time during the tenancy, the persons in common with whom the tenant is entitled to the use of the shared accommodation could be varied or their number could be increased, nothing in subsection (3) above shall prevent those terms from having effect so far as they relate to any such variation or increase.
- (5) In this section “living accommodation” means accommodation of such a nature that the fact that it constitutes or is included in the shared accommodation is sufficient,

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apart from this section, to prevent the tenancy from constituting an assured tenancy of a dwelling-house.

4 Certain sublettings not to exclude any part of sub-lessor’s premises from assured tenancy.

- (1) Where the tenant of a dwelling-house has sub-let a part but not the whole of the dwelling-house, then, as against his landlord or any superior landlord, no part of the dwelling-house shall be treated as excluded from being a dwelling-house let on an assured tenancy by reason only that the terms on which any person claiming under the tenant holds any part of the dwelling-house include the use of accommodation in common with other persons.
- (2) Nothing in this section affects the rights against, and liabilities to, each other of the tenant and any person claiming under him, or of any two such persons.

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