



Leasehold Reform, Housing and Urban Development Act 1993

1993 CHAPTER 28

PART I

LANDLORD AND TENANT

CHAPTER II

INDIVIDUAL RIGHT OF TENANT OF FLAT TO ACQUIRE NEW LEASE

The tenant's notice

42 Notice by qualifying tenant of claim to exercise right

- (1) A claim by a qualifying tenant of a flat to exercise the right to acquire a new lease of the flat is made by the giving of notice of the claim under this section.
- (2) A notice given by a tenant under this section (“the tenant’s notice”) must be given—
 - (a) to the landlord, and
 - (b) to any third party to the tenant’s lease.
- (3) The tenant’s notice must—
 - (a) state the full name of the tenant and the address of the flat in respect of which he claims a new lease under this Chapter;
 - (b) contain the following particulars, namely—
 - (i) sufficient particulars of that flat to identify the property to which the claim extends,
 - (ii) such particulars of the tenant’s lease as are sufficient to identify it, including the date on which the lease was entered into, the term for which it was granted and the date of the commencement of the term,

Status: This is the original version (as it was originally enacted).

- (iii) such further particulars as are necessary to show that the tenant's lease is, in accordance with section 8 (as that section applies in accordance with section 39(3)), a lease at a low rent, and
 - (iv) particulars of the period or periods falling within the preceding ten years for which the tenant has occupied the whole or part of the flat as his only or principal home;
 - (c) specify the premium which the tenant proposes to pay in respect of the grant of a new lease under this Chapter and, where any other amount will be payable by him in accordance with any provision of Schedule 13, the amount which he proposes to pay in accordance with that provision;
 - (d) specify the terms which the tenant proposes should be contained in any such lease;
 - (e) state the name of the person (if any) appointed by the tenant to act for him in connection with his claim, and an address in England and Wales at which notices may be given to any such person under this Chapter; and
 - (f) specify the date by which the landlord must respond to the notice by giving a counter-notice under section 45.
- (4) If the tenant's lease is held by joint tenants, the reference to the tenant in subsection (3)(b)(iv) shall be read as a reference to any joint tenant with respect to whom it is claimed that the condition in section 39(2)(b) is satisfied.
- (5) The date specified in the tenant's notice in pursuance of subsection (3)(f) must be a date falling not less than two months after the date of the giving of the notice.
- (6) Where a notice under this section has been given with respect to any flat, no subsequent notice may be given under this section with respect to the flat so long as the earlier notice continues in force.
- (7) Where a notice under this section has been given with respect to a flat and—
- (a) that notice has been withdrawn, or is deemed to have been withdrawn, under or by virtue of any provision of this Chapter, or
 - (b) in response to that notice, an order has been applied for and obtained under section 47(1),
- no subsequent notice may be given under this section with respect to the flat within the period of twelve months beginning with the date of the withdrawal or deemed withdrawal of the earlier notice or with the time when the order under section 47(1) becomes final (as the case may be).
- (8) Where a notice is given in accordance with this section, then for the purposes of this Chapter the notice continues in force as from the relevant date—
- (a) until a new lease is granted in pursuance of the notice;
 - (b) if the notice is withdrawn, or is deemed to have been withdrawn, under or by virtue of any provision of this Chapter, until the date of the withdrawal or deemed withdrawal; or
 - (c) until such other time as the notice ceases to have effect by virtue of any provision of this Chapter;
- but this subsection has effect subject to section 54.
- (9) Schedule 12 (which contains restrictions on terminating a tenant's lease where he has given a notice under this section and makes other provision in connection with the giving of notices under this section) shall have effect.

43 General provisions as respects effect of tenant’s notice

- (1) Where a notice has been given under section 42 with respect to any flat, the rights and obligations of the landlord and the tenant arising from the notice shall enure for the benefit of and be enforceable against them, their personal representatives and assigns to the like extent (but no further) as rights and obligations arising under a contract for leasing freely entered into between the landlord and the tenant.
- (2) Accordingly, in relation to matters arising out of any such notice, references in this Chapter to the landlord and the tenant shall, in so far as the context permits, include their respective personal representatives and assigns.
- (3) Notwithstanding anything in subsection (1), the rights and obligations of the tenant shall be assignable with, but shall not be capable of subsisting apart from, the lease of the entire flat; and, if the tenant’s lease is assigned without the benefit of the notice, the notice shall accordingly be deemed to have been withdrawn by the tenant as at the date of the assignment.
- (4) In the event of any default by the landlord or the tenant in carrying out the obligations arising from the tenant’s notice, the other of them shall have the like rights and remedies as in the case of a contract freely entered into.
- (5) In a case to which section 40(2) applies, the rights and obligations of the landlord arising out of the tenant’s notice shall, so far as their interests are affected, be rights and obligations respectively of the competent landlord and of each of the other landlords, and references to the landlord in subsections (1) and (2) above shall apply accordingly.
- (6) In subsection (5) “competent landlord” and “other landlord” have the meaning given by section 40(4); and subsection (5) has effect without prejudice to the operation of section 40(2) or Schedule 11.