

Changes to legislation: Leasehold Reform, Housing and Urban Development Act 1993, SCHEDULE 14 is up to date with all changes known to be in force on or before 18 April 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

SCHEDULES

SCHEDULE 14

Section 61.

PROVISIONS SUPPLEMENTARY TO SECTION 61

Commencement Information

II Sch. 14 wholly in force at 1.11.1993 see s. 188(2) and S.I. 1993/2134, art. 5

- 1 (1) This Schedule has effect where a tenant of a flat is entitled to be paid compensation under section 61, or would be so entitled on the landlord obtaining an order for possession, or where an application for such an order is dismissed or withdrawn.
- (2) In this Schedule—
 - “application for possession” means a landlord’s application under section 61;
 - “the new lease” has the same meaning as in that section; and
 - “order for possession” means an order made under that section;and (except in the case of the reference in paragraph 5(1)(b) to the flat as a dwelling) references to the flat held by the tenant under the new lease shall be construed in accordance with subsection (5) of that section.
- 2 (1) Where an order for possession is made—
 - (a) the new lease shall determine, and
 - (b) the compensation payable to the tenant by virtue of the order shall become payable,on such date as may, when the amount of compensation has been determined either by agreement between the landlord and the tenant or by [F1the appropriate tribunal], be fixed by order of the court made on the application of either the landlord or the tenant.
- (2) Where the application for possession was made by virtue of section 61(2)(a), then—
 - (a) (unless paragraph (b) below applies) an order of the court under this paragraph shall not fix a date earlier than the term date of the lease in relation to which the right to acquire a new lease was exercised;
 - (b) in a case where section 61(2)(a) applies in accordance with section 61(3), an order of the court under this paragraph shall not fix a date earlier than the term date of the lease in relation to which that right was first exercised.
- (3) In fixing the date referred to in sub-paragraph (1) the court shall have regard to the conduct of the parties and to the extent to which the landlord has made reasonable preparations for proceeding with the redevelopment (including the obtaining of, or preparations relating to the obtaining of, any requisite permission or consent, whether from any authority whose permission or consent is required under any enactment or from the owner of an interest in any property).

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- (4) The court may by order direct that the whole or part of the compensation payable to the tenant shall be paid into court, if the court thinks it expedient to do so for the purpose of ensuring that the sum paid is available for meeting any mortgage on the tenant's interest in the flat in question, or for the purpose of division, or for any other purpose.

Textual Amendments

F1 Words in [Sch. 14 para. 2\(1\)](#) substituted (1.7.2013) by [The Transfer of Tribunal Functions Order 2013 \(S.I. 2013/1036\)](#), art. 1, [Sch. 1 para. 129](#) (with [Sch. 3](#))

- 3 (1) On the termination of a lease under an order for possession there shall terminate also any immediate or derivative sub-lease, and the tenant shall be bound to give up possession of the flat in question to the landlord except in so far as he is precluded from doing so by the rights of other persons to retain possession under or by virtue of any enactment.
- (2) Where a sub-lease of property comprised in the lease has been created after the date of the application for possession, no person shall in respect of that sub-lease be entitled under any of the following provisions (which relate to retaining possession on the termination of a superior tenancy), namely—
- (a) subsection (2) of section 137 of the ^{M1}Rent Act 1977, or any enactment (including subsection (5) of that section) applying or extending it,
 - (b) subsection (2) of section 9 of the ^{M2}Rent (Agriculture) Act 1976 as extended by subsection (5) of that section, or
 - (c) section 18(1) of the ^{M3}Housing Act 1988,
- to retain possession of that property after the termination of the lease under the order for possession.
- (3) In exercising its jurisdiction under section 61 or this Schedule the court shall assume that the landlord, having obtained an order for possession, will not be precluded from obtaining possession by the right of any person to retain possession by virtue of—
- (a) Part VII of the Rent Act 1977 or any enactment applying or extending that Part of that Act,
 - (b) the Rent (Agriculture) Act 1976, or
 - (c) Part I of the Housing Act 1988,
- or otherwise.
- (4) A person in occupation of any property under a sub-lease liable to terminate under sub-paragraph (1) may, with the leave of the court, appear and be heard on any application for possession or any application under paragraph 2.

Marginal Citations

M1 1977 c. 42.
M2 1976 c. 80.
M3 1988 c. 50.

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- 4 Where an order has been made by [^{F2}the county court] under paragraph 2, that court ^{F3}... shall have jurisdiction to hear and determine any proceedings brought by virtue of the order to recover possession of the property or to recover the compensation.

Textual Amendments

- F2** Words in Sch. 14 para. 4 substituted (22.4.2014) by [Crime and Courts Act 2013 \(c. 22\), s. 61\(3\), Sch. 9 para. 52](#); [S.I. 2014/954, art. 2\(c\)](#) (with [art. 3](#)) (with transitional provisions and savings in [S.I. 2014/956, arts. 3-11](#))
- F3** Words in Sch. 14 para. 4 omitted (22.4.2014) by virtue of [Crime and Courts Act 2013 \(c. 22\), s. 61\(3\), Sch. 9 para. 100](#); [S.I. 2014/954, art. 2\(c\)](#) (with [art. 3](#)) (with transitional provisions and savings in [S.I. 2014/956, arts. 3-11](#))

- 5 (1) The amount payable to a tenant, by virtue of an order for possession, by way of compensation for loss of his flat shall be the amount which at the valuation date the new lease, if sold on the open market by a willing seller, might be expected to realise on the following assumptions—
- (a) on the assumption that Chapter I and this Chapter confer no right to acquire any interest in any premises containing the tenant's flat or to acquire any new lease;
 - (b) on the assumption that the vendor is selling—
 - (i) subject to the rights of any person who will on the termination of the lease be entitled to retain possession as against the landlord, but otherwise with vacant possession, and
 - (ii) subject to any restriction that would be required (in addition to any imposed by the terms of the lease) to limit the uses of the flat to those to which it has been put since the commencement of the lease and to preclude the erection of any new dwelling or any other building not ancillary to the flat as a dwelling; and
 - (c) on the assumption that (subject to paragraphs (a) and (b)) the vendor is selling with and subject to the rights and burdens with and subject to which the flat will be held by the landlord on the termination of the lease.
- (2) It is hereby declared that the fact that sub-paragraph (1) requires assumptions to be made as to the matters specified in paragraphs (a) to (c) of that sub-paragraph does not preclude the making of assumptions as to other matters where those assumptions are appropriate for determining the amount which at the valuation date the new lease might be expected to realise if sold as mentioned in that sub-paragraph.
- (3) In determining any such amount there shall be made such deduction (if any) in respect of any defect in title as on a sale of that interest on the open market might be expected to be allowed between a willing seller and a willing buyer.
- (4) In this paragraph “the valuation date” means the date when the amount of the compensation payable to the tenant is determined as mentioned in paragraph 2(1).
- 6 (1) Part I of the ^{M4}Landlord and Tenant Act 1927 (compensation for improvements on termination of business tenancies) shall not apply on the termination of the new lease or any sub-lease in accordance with this Schedule; and a request for a new tenancy under section 26 of the ^{M5}Landlord and Tenant Act 1954 in respect of the new lease or any sub-lease shall be of no effect if made after the application for possession, or, if already made, shall cease to have effect on the making of that application.

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- (2) Where a sub-lease terminating with the new lease in accordance with paragraph 3 is one to which Part II of the Landlord and Tenant Act 1954 applies, the compensation payable to the tenant shall be divided between him and the sub-tenant in such proportions as may be just, regard being had to their respective interests in the flat in question and to any loss arising from the termination of those interests and not incurred by imprudence.
- (3) Where the amount of the compensation payable to the tenant is agreed between him and the landlord without the consent of a sub-tenant entitled under sub-paragraph (2) to a share in the compensation, and is shown by the sub-tenant to be less than might reasonably have been obtained by the tenant, the sub-tenant shall be entitled under sub-paragraph (2) to recover from the tenant such increased share as may be just.

Marginal Citations

- M4** 1927 c. 36.
M5 1954 c. 56.

- 7 (1) The landlord shall not be concerned with the application of the amount payable to the tenant by way of compensation under an order for possession, but (subject to any statutory requirements as to payment of capital money arising under a settlement or a [F⁴trust of land] and to any order under paragraph 2(4) for payment into court) the written receipt of the tenant shall be a complete discharge for the amount payable.
- (2) The landlord shall be entitled to deduct from the amount so payable to the tenant—
- (a) the amount of any sum recoverable as rent in respect of the flat up to the termination of the new lease; and
 - (b) the amount of any other sums due and payable by the tenant to the landlord under or in respect of the lease or any agreement collateral thereto.

Textual Amendments

- F4** Words in [Sch. 14 para. 7\(1\)](#) substituted (1.1.1997) by [1996 c. 47, s. 25\(1\)](#), [Sch. 3 para. 27\(3\)\(a\)](#) (with [ss. 24\(2\), 25\(4\)\(5\)](#)); [S.I. 1996/2974, art.2](#)

- 8 (1) Where a landlord makes an application for possession, and it is made to appear to the court that in relation to matters arising out of that application (including the giving up of possession of the flat or the payment of compensation) the landlord or the tenant has been guilty of any unreasonable delay or default, the court may—
- (a) by order revoke or vary, and direct repayment of sums paid under, any provision made by a previous order as to payment of the costs of proceedings taken in the court on or with reference to the application; or
 - (b) where costs have not been awarded, award costs.
- (2) Where an application for possession is dismissed or withdrawn, and it is made to appear to the court—
- (a) that the application was not made in good faith, or
 - (b) that the landlord had attempted in any material respect to support by misrepresentation or the concealment of material facts a request to the tenant to deliver up possession without an application for possession,

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the court may order that no further application for possession of the flat made by the landlord shall be entertained if it is made within the period of five years beginning with the date of the order.

- 9 Where—
- (a) the new lease is [^{F5}subject to a trust of land], and
 - (b) compensation is paid by the landlord on the termination of the new lease (whether the payment is made in pursuance of an order for possession or in pursuance of an agreement made in conformity with paragraph 5 above without an application having been made under section 61),
- the sum received shall be dealt with as if it were proceeds of sale arising under the trust.

Textual Amendments

F5 Words in Sch. 14 para. 9(a) substituted (1.1.1997) by 1996 c. 47, s. 25(1), Sch. 3 para. 27(3)(b) (with ss. 24(2), 25(4)(5)); S.I. 1996/2974, art.2

- 10 Where—
- (a) the tenant under the new lease is a university or college to which the ^{M6}Universities and College Estates Act 1925 applies, and
 - (b) compensation is paid as mentioned in paragraph 9(b) above,
- the sum received shall be dealt with as if it were an amount payable by way of consideration on a sale effected under that Act.

Marginal Citations

M6 1925 c. 24.

- 11 Where—
- (a) the tenant under the new lease is [^{F6}the Chapter of a cathedral] and the lease comprises property which forms part of the endowment of a cathedral church, and
 - (b) compensation is paid as mentioned in paragraph 9(b) above,
- the sum received shall be treated as part of that endowment.

Textual Amendments

F6 Words in Sch. 14 para. 11(a) substituted (coming into force in accordance with s. 53(3) of the amending Measure) by Cathedrals Measure 2021 (No. 2), Sch. 4 para. 25 (with ss. 42(4), 48, 52(1))

Modifications etc. (not altering text)

C1 Sch. 14 para. 11 amended (30.6.1999) by 1999 No. 1, ss. 36(2)(6), 38(2)(3) (with ss. 33, 34, 38(6), 37)

- 12 (1) Where—
- (a) the tenant under the new lease is a diocesan board of finance and the lease comprises diocesan glebe land, and
 - (b) compensation is paid as mentioned in paragraph 9(b) above,

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the sum received shall be paid to the Church Commissioners to be applied for purposes for which the proceeds of any disposition of property by agreement would be applicable under any enactment or Measure authorising such a disposition or disposing of the proceeds of such a disposition.

[^{F7}(2) In this paragraph—

“diocesan board of finance” has the same meaning as “DBF” in the Church Property Measure 2018;

“diocesan glebe land” has the same meaning as in that Measure.]

Textual Amendments

F7 Sch. 14 para. 12(2) substituted (E.) (1.3.2019) by Church Property Measure 2018 (No. 8), s. 53(2), Sch. 1 para. 20; S.I. 2019/97, art. 2

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Changes and effects yet to be applied to :

- Sch. 14 para. 10 omitted by [2022 c. 6 Sch. 1 para. 18\(3\)](#)

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. 12A and cross-heading inserted by [2002 c. 15 s. 123\(1\)](#)
- s. 12A(3)(a)(b) words substituted by [S.I. 2009/1941 Sch. 1 para. 140\(5\)](#)
- s. 12A(4)(a) words substituted by [S.I. 2009/1941 Sch. 1 para. 140\(5\)](#)
- s. 12A(4)(c) words substituted by [S.I. 2009/1941 Sch. 1 para. 140\(5\)](#)
- s. 13(2ZA) inserted by [2002 c. 15 s. 121\(3\)](#)
- s. 13(2ZB) inserted by [2002 c. 15 s. 123\(2\)](#)
- s. 13(5A) inserted by [2002 c. 15 Sch. 8 para. 6\(3\)](#)
- s. 29(4A) inserted by [2002 c. 15 Sch. 8 para. 18\(2\)](#)
- s. 29(4A) words added by [S.I. 2003/2096 Sch. para. 20\(b\)](#)
- s. 29(4A)(a) words omitted by [S.I. 2003/2096 Sch. para. 20\(a\)](#)
- s. 29(4A)(d) words substituted by [S.I. 2009/1941 Sch. 1 para. 140\(6\)](#)
- s. 70(15) inserted by [2023 asc 3 Sch. 13 para. 166\(b\)](#)
- s. 78(5A)-(5C) inserted by [2008 c. 17 Sch. 12 para. 15\(3\)](#)
- s. 78(7) inserted by [2008 c. 17 Sch. 12 para. 15\(4\)](#)
- s. 79(2)(2A) substituted for s. 79(2) by [2002 c. 15 Sch. 10 para. 16\(3\)](#)
- s. 156(4) repealed by [2014 asp 14 sch. 2 para. 7](#)
- Sch. 20 para. 5(1A) inserted by [2008 c. 29 Sch. 9 para. 5\(2\)](#)