



# Commonhold and Leasehold Reform Act 2002

## 2002 CHAPTER 15

### PART 2

#### LEASEHOLD REFORM

### CHAPTER 4

#### LEASEHOLD HOUSES

#### *Qualifying rules*

#### **138 Abolition of residence test**

- (1) In subsection (1) of section 1 of the 1967 Act (tenants of houses entitled to enfranchisement or extension), omit—
  - (a) “, occupying the house as his residence,” and
  - (b) “, and occupying it as his residence.”
- (2) After that subsection insert—
  - “(1ZA) Where a house is for the time being let under two or more tenancies, a tenant under any of those tenancies which is superior to that held by any tenant on whom this Part of this Act confers a right does not have any right under this Part of this Act.
  - (1ZB) Where a flat forming part of a house is let to a person who is a qualifying tenant of the flat for the purposes of Chapter 1 or 2 of Part 1 of the Leasehold Reform, Housing and Urban Development Act 1993 (c. 28), a tenant of the house does not have any right under this Part of this Act unless, at the relevant time, he has been occupying the house, or any part of it, as his only or main residence (whether or not he has been using it for other purposes)—

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**Changes to legislation:** There are currently no known outstanding effects for the Commonhold and Leasehold Reform Act 2002, Cross Heading: *Qualifying rules.* (See end of Document for details)

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- (a) for the last two years; or
  - (b) for periods amounting to two years in the last ten years.”
- (3) In subsection (3) of that section (exception where house is let to and occupied by tenant with other land or premises to which it is ancillary), for “occupation of it as his residence (but shall apply as if he were not so occupying it)” substitute “ being a tenant of it ”.
- (4) In section 2(4) of the 1967 Act (premises previously let with house), for “occupied and used as mentioned in subsection (3) above” substitute “ subject to a tenancy vested in him ”.
- (5) In section 6(1) of the 1967 Act (rights in case of trusts), for the words from the beginning to “right of the tenancy” substitute “ A tenant of a house shall for purposes of this Part of this Act be treated as having been a tenant of it at any earlier time ”.
- (6) In section 7(3) and (4) of the 1967 Act (rights of members of family succeeding to tenancy on death), for “with him” substitute “ in the house ”.

#### Commencement Information

- II** S. 138 wholly in force at 1.1.2003; s. 138 not in force at Royal Assent, see s. 181(1); s. 138 in force at 26.7.2002 for E. by [S.I. 2002/1912](#), [art. 2\(b\)\(i\)](#) (subject to transitional provisions and savings in [Sch. 2](#)); s. 138 in force at 1.1.2003 for W. by [S.I. 2002/3012](#), [art. 2\(b\)\(i\)](#) (subject to transitional provisions and savings in [Sch. 2](#))

### 139 Reduction of qualifying period as tenant etc

- (1) In subsection (1)(b) of section 1 of the 1967 Act (requirement that person claiming entitlement to enfranchisement or extension has been tenant of house for last three years or for periods amounting to three years in last ten), for “three years or for periods amounting to three years in the last ten years” substitute “ two years ”.
- (2) After subsection (1A) of that section insert—
- “(1B) This Part of this Act shall not have effect to confer any right on the tenant of a house under a tenancy to which Part 2 of the Landlord and Tenant Act 1954 (c. 56) (business tenancies) applies unless, at the relevant time, the tenant has been occupying the house, or any part of it, as his only or main residence (whether or not he has been using it for other purposes)—
- (a) for the last two years; or
  - (b) for periods amounting to two years in the last ten years.”
- (3) In—
- (a) section 9(3)(b) of the 1967 Act (no new notice for three years after withdrawal), and
  - (b) section 23(2)(b) of the 1967 Act (agreements excluding or restricting for period not exceeding three years right to give further notice),
- for “three years” substitute “ twelve months ”.

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### Commencement Information

- I2** S. 139 wholly in force at 1.1.2003; s. 139 not in force at Royal Assent, see s. 181(1); s. 139 in force at 26.7.2002 for E. by [S.I. 2002/1912](#), [art. 2\(b\)\(i\)](#) (subject to transitional provisions and savings in [Sch. 2](#)); s. 139 in force at 1.1.2003 for W. by [S.I. 2002/3012](#), [art. 2\(b\)\(i\)](#) (subject to transitional provisions and savings in [Sch. 2](#))

## 140 Exclusion of certain business tenancies

After subsection (1ZB) of section 1 of the 1967 Act (inserted by section 138(2)) insert—

“(1ZC) The references in subsection (1)(a) and (b) to a long tenancy do not include a tenancy to which Part 2 of the Landlord and Tenant Act 1954 (business tenancies) applies unless—

- (a) it is granted for a term of years certain exceeding thirty-five years, whether or not it is (or may become) terminable before the end of that term by notice given by or to the tenant or by re-entry, forfeiture or otherwise,
- (b) it is for a term fixed by law under a grant with a covenant or obligation for perpetual renewal, unless it is a tenancy by sub-demise from one which is not a tenancy which falls within any of the paragraphs in this subsection,
- (c) it is a tenancy taking effect under section 149(6) of the Law of Property Act 1925 (c. 20) (leases terminable after a death or marriage), or
- (d) it is a tenancy which—
  - (i) is or has been granted for a term of years certain not exceeding thirty-five years, but with a covenant or obligation for renewal without payment of a premium (but not for perpetual renewal), and
  - (ii) is or has been once or more renewed so as to bring to more than thirty-five years the total of the terms granted (including any interval between the end of a tenancy and the grant of a renewal).

(1ZD) Where this Part of this Act applies as if there were a single tenancy of property comprised in two or more separate tenancies, then, if each of the separate tenancies falls within any of the paragraphs of subsection (1ZC) above, that subsection shall apply as if the single tenancy did so.”

### Commencement Information

- I3** S. 140 wholly in force at 1.1.2003; s. 140 not in force at Royal Assent, see s. 181(1); s. 140 in force at 26.7.2002 for E. by [S.I. 2002/1912](#), [art. 2\(b\)\(i\)](#) (subject to transitional provisions and savings in [Sch. 2](#)); s. 140 in force at 1.1.2003 for W. by [S.I. 2002/3012](#), [art. 2\(b\)\(i\)](#) (subject to transitional provisions and savings in [Sch. 2](#))

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## 141 Tenancies not at low rent

- (1) Section 1AA of the 1967 Act (additional right to enfranchisement where tenancy of house not at low rent) is amended as follows.
- (2) Omit—
  - (a) in subsection (1)(b), “falls within subsection (2) below and”, and
  - (b) subsection (2) (tenancies for more than 35 years etc.).
- (3) In subsection (3) (exceptions)—
  - (a) in paragraph (b), for “the coming into force of section 106 of the Housing Act 1996 (c. 52)” substitute “ 1st April 1997 (the date on which section 106 of the Housing Act 1996 came into force) ”, and
  - (b) for paragraph (c) substitute—
    - “(c) the tenancy either—
      - (i) was granted on or before that date, or
      - (ii) was granted after that date, but on or before the coming into force of section 141 of the Commonhold and Leasehold Reform Act 2002, for a term of years certain not exceeding thirty-five years.”

### Commencement Information

- I4** S. 141 wholly in force at 1.1.2003; s. 141 not in force at Royal Assent, see s. 181(1); s. 141 in force at 26.7.2002 for E. by [S.I. 2002/1912](#), [art. 2\(b\)\(i\)](#) (subject to transitional provisions and savings in [Sch. 2](#)); s. 141 in force at 1.1.2003 for W. by [S.I. 2002/3012](#), [art. 2\(b\)\(i\)](#) (subject to transitional provisions and savings in [Sch. 2](#))

## 142 Personal representatives

- (1) After section 6 of the 1967 Act insert—

### “6A Rights of personal representatives

- (1) Where a tenant of a house dies and, immediately before his death, he had under this Part of this Act—
    - (a) the right to acquire the freehold, or
    - (b) the right to an extended lease,
 the right is exercisable by his personal representatives while the tenancy is vested in them (but subject to subsection (2) below); and, accordingly, in such a case references in this Part of this Act to the tenant shall, in so far as the context permits, be to the personal representatives.
  - (2) The personal representatives of a tenant may not give notice of their desire to have the freehold or an extended lease by virtue of subsection (1) above later than two years after the grant of probate or letters of administration.”
- (2) In paragraph 6(2) of Schedule 3 (particulars to be contained in notice), after “6” (in both places) insert “ , 6A ”.

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### Commencement Information

- I5** S. 142 wholly in force at 1.1.2003; s. 142 not in force at Royal Assent, see s. 181(1); s. 142 in force at 26.7.2002 for E. by [S.I. 2002/1912](#), [art. 2\(a\)](#); s. 142 in force at 1.1.2003 for W. by [S.I. 2002/3012](#), [art.2\(a\)](#)

## 143 Abolition of limits on rights after lease extension

- (1) In section 16 of the 1967 Act (limits on rights after extension of lease), omit—
- (a) subsection (1)(a) (no right for tenant under extended tenancy to acquire freehold after end of original lease), and
  - (b) in subsection (4) (no right to freehold or extended lease in case of tenancy created by sub-demise under extended tenancy), the words “the freehold or”.
- (2) For subsection (1B) of that section (extended tenancy not an assured tenancy or assured agricultural occupancy or a tenancy to which Schedule 10 to the Local Government and Housing Act 1989 (c. 42) applies) substitute—
- “(1B) Schedule 10 to the Local Government and Housing Act 1989 applies to every tenancy extended under section 14 above (whether or not it is for the purposes of that Schedule a long tenancy at a low rent as respects which the qualifying condition is fulfilled).”
- (3) Paragraph (a) of subsection (1) and subsection (2) apply whether the tenancy in question is extended before or after the coming into force of that paragraph or subsection; and paragraph (b) of subsection (1) applies whether the lease by sub-demise in question is created before or after the coming into force of that paragraph.
- (4) In section 9 of the 1967 Act (purchase price), after subsection (1A) insert—
- “(1AA) Where, in a case in which the price payable for a house and premises is to be determined in accordance with subsection (1A) above, the tenancy has been extended under this Part of this Act—
- (a) if the relevant time is on or before the original term date, the assumptions set out in that subsection apply as if the tenancy is to terminate on the original term date; and
  - (b) if the relevant time is after the original term date, the assumptions set out in paragraphs (a), (c) and (e) of that subsection apply as if the tenancy had terminated on the original term date and the assumption set out in paragraph (b) of that subsection applies as if the words “at the end of the tenancy” were omitted.”

### Commencement Information

- I6** S. 143 wholly in force at 1.1.2003; s. 143 not in force at Royal Assent, see s. 181(1); s. 143 in force at 26.7.2002 for E. by [S.I. 2002/1912](#), [art. 2\(b\)\(i\)](#) (subject to transitional provisions and savings in [Sch. 2](#)); s. 143 in force at 1.1.2003 for W. by [S.I. 2002/3012](#), [art. 2\(b\)\(i\)](#) (subject to transitional provisions and savings in [Sch. 2](#))

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## 144 Exclusion of shared ownership leases

- (1) Schedule 4A to the 1967 Act (exclusion of certain shared ownership leases) is amended as follows.
- (2) <sup>F1</sup> .....
- (3) In paragraph 3(2)(d) (conditions to be satisfied for exclusion of lease granted by a housing association), omit “assign,”.

### Textual Amendments

- F1** S. 144(2) repealed (1.4.2010) by [The Housing and Regeneration Act 2008 \(Consequential Provisions\) Order 2010 \(S.I. 2010/866\)](#), art. 7, [Sch. 4](#) (with art. 6, Sch. 3)

### Commencement Information

- I7** S. 144 wholly in force at 1.1.2003; s. 144 not in force at Royal Assent, see s. 181(1); s. 144 in force at 26.7.2002 for E. by [S.I. 2002/1912](#), [art. 2\(b\)\(i\)](#) (subject to transitional provisions and savings in [Sch. 2](#)); s. 144 in force at 1.1.2003 for W. by [S.I. 2002/3012](#), [art. 2\(b\)\(i\)](#) (subject to transitional provisions and savings in [Sch. 2](#))

**Changes to legislation:**

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