



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)—

Changes to legislation: There are currently no known outstanding effects for the Commonhold and Leasehold Reform Act 2002, Section 138. (See end of Document for details)

- (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](#))

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