



# Localism Act 2011

## 2011 CHAPTER 20

### PART 7

#### HOUSING

### CHAPTER 2

#### SOCIAL HOUSING: TENURE REFORM

#### *Flexible tenancies*

#### 154 Flexible tenancies

After section 106A of the Housing Act 1985 insert—

#### *“Flexible tenancies*

#### **107A Flexible tenancies**

- (1) For the purposes of this Act, a flexible tenancy is a secure tenancy to which any of the following subsections applies.
- (2) This subsection applies to a secure tenancy if—
  - (a) it is granted by a landlord in England for a term certain of not less than two years, and
  - (b) before it was granted the person who became the landlord under the tenancy served a written notice on the person who became the tenant under the tenancy stating that the tenancy would be a flexible tenancy.
- (3) This subsection applies to a secure tenancy if—

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- (a) it becomes a secure tenancy by virtue of a notice under paragraph 4ZA(2) of Schedule 1 (family intervention tenancies becoming secure tenancies),
  - (b) the landlord under the family intervention tenancy in question was a local housing authority in England,
  - (c) the family intervention tenancy was granted to a person on the coming to an end of a flexible tenancy under which the person was a tenant,
  - (d) the notice states that the tenancy is to become a secure tenancy that is a flexible tenancy for a term certain of the length specified in the notice, and sets out the other express terms of the tenancy, and
  - (e) the length of the term specified in the notice is at least two years.
- (4) The length of the term of a flexible tenancy that becomes such a tenancy by virtue of subsection (3) is that specified in the notice under paragraph 4ZA(2) of Schedule 1.
- (5) The other express terms of the flexible tenancy are those set out in the notice, so far as those terms are compatible with the statutory provisions relating to flexible tenancies; and in this subsection “statutory provision” means any provision made by or under an Act.
- (6) This subsection applies to a secure tenancy if—
- (a) it is created by virtue of section 137A of the Housing Act 1996 (introductory tenancies becoming flexible tenancies), or
  - (b) it arises by virtue of section 143MA of that Act (demoted tenancies becoming flexible tenancies).

### **107B Review of decisions relating to flexible tenancies**

- (1) This section applies if a person (“the prospective landlord”)—
- (a) offers to grant a flexible tenancy (whether or not on the coming to an end of an existing tenancy of any kind), or
  - (b) serves a notice under section 137A of the Housing Act 1996 stating that, on the coming to an end of an introductory tenancy, it will become a flexible tenancy.
- (2) A person to whom the offer is made or on whom the notice is served (“the person concerned”) may request a review of the prospective landlord's decision about the length of the term of the tenancy.
- (3) The review may only be requested on the basis that the length of the term does not accord with a policy of the prospective landlord as to the length of the terms of the flexible tenancies it grants.
- (4) A request for a review must be made before the end of—
- (a) the period of 21 days beginning with the day on which the person concerned first receives the offer or notice, or
  - (b) such longer period as the prospective landlord may in writing allow.
- (5) On a request being duly made to it, the prospective landlord must review its decision.

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- (6) The Secretary of State may by regulations make provision about the procedure to be followed in connection with a review under this section.
- (7) The regulations may, in particular, make provision—
  - (a) requiring the decision on the review to be made by a person of appropriate seniority who was not involved in the original decision, and
  - (b) as to the circumstances in which the person concerned is entitled to an oral hearing, and whether and by whom the person may be represented at such a hearing.
- (8) The prospective landlord must notify the person concerned in writing of the decision on the review.
- (9) If the decision is to confirm the original decision, the prospective landlord must also notify the person of the reasons for the decision.
- (10) Regulations under this section—
  - (a) may contain transitional or saving provision;
  - (b) are to be made by statutory instrument which is subject to annulment in pursuance of a resolution of either House of Parliament.

#### **107C Termination of flexible tenancy by tenant**

- (1) It is a term of every flexible tenancy that the tenant may terminate the tenancy in accordance with the following provisions of this section.
- (2) The tenant must serve a notice in writing on the landlord stating that the tenancy will be terminated on the date specified in the notice.
- (3) That date must be after the end of the period of four weeks beginning with the date on which the notice is served.
- (4) The landlord may agree with the tenant to dispense with the requirement in subsection (2) or (3).
- (5) The tenancy is terminated on the date specified in the notice or (as the case may be) determined in accordance with arrangements made under subsection (4) only if on that date—
  - (a) no arrears of rent are payable under the tenancy, and
  - (b) the tenant is not otherwise materially in breach of a term of the tenancy.

#### **107D Recovery of possession on expiry of flexible tenancy**

- (1) Subject as follows, on or after the coming to an end of a flexible tenancy a court must make an order for possession of the dwelling-house let on the tenancy if it is satisfied that the following conditions are met.
- (2) Condition 1 is that the flexible tenancy has come to an end and no further secure tenancy (whether or not a flexible tenancy) is for the time being in existence, other than a secure tenancy that is a periodic tenancy (whether or not arising by virtue of section 86).
- (3) Condition 2 is that the landlord has given the tenant not less than six months' notice in writing—

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- (a) stating that the landlord does not propose to grant another tenancy on the expiry of the flexible tenancy,
  - (b) setting out the landlord's reasons for not proposing to grant another tenancy, and
  - (c) informing the tenant of the tenant's right to request a review of the landlord's proposal and of the time within which such a request must be made.
- (4) Condition 3 is that the landlord has given the tenant not less than two months' notice in writing stating that the landlord requires possession of the dwelling-house.
- (5) A notice under subsection (4) may be given before or on the day on which the tenancy comes to an end.
- (6) The court may refuse to grant an order for possession under this section if—
- (a) the tenant has in accordance with section 107E requested a review of the landlord's proposal not to grant another tenancy on the expiry of the flexible tenancy, and
  - (b) the court is satisfied that the landlord has failed to carry out the review in accordance with provision made by or under that section or that the decision on the review is otherwise wrong in law.
- (7) If a court refuses to grant an order for possession by virtue of subsection (6) it may make such directions as to the holding of a review or further review under section 107E as it thinks fit.
- (8) This section has effect notwithstanding that, on the coming to an end of the flexible tenancy, a periodic tenancy arises by virtue of section 86.
- (9) Where a court makes an order for possession of a dwelling-house by virtue of this section, any periodic tenancy arising by virtue of section 86 on the coming to an end of the flexible tenancy comes to an end (without further notice and regardless of the period) in accordance with section 82(2).
- (10) This section is without prejudice to any right of the landlord under a flexible tenancy to recover possession of the dwelling-house let on the tenancy in accordance with this Part.

### **107E Review of decision to seek possession**

- (1) A request for a review of a landlord's decision to seek an order for possession of a dwelling-house let under a flexible tenancy must be made before the end of the period of 21 days beginning with the day on which the notice under section 107D(3) is served.
- (2) On a request being duly made to it, the landlord must review its decision.
- (3) The review must, in particular, consider whether the decision is in accordance with any policy of the landlord as to the circumstances in which it will grant a further tenancy on the coming to an end of an existing flexible tenancy.
- (4) The Secretary of State may by regulations make provision about the procedure to be followed in connection with a review under this section.

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- (5) The regulations may, in particular, make provision—
- (a) requiring the decision on the review to be made by a person of appropriate seniority who was not involved in the original decision, and
  - (b) as to the circumstances in which the person concerned is entitled to an oral hearing, and whether and by whom the person may be represented at such a hearing.
- (6) The landlord must notify the tenant in writing of the decision on the review.
- (7) If the decision is to confirm the original decision, the landlord must also notify the tenant of the reasons for the decision.
- (8) The review must be carried out, and the tenant notified, before the date specified in the notice of proceedings as the date after which proceedings for the possession of the dwelling-house may be begun.
- (9) Regulations under this section—
- (a) may contain transitional or saving provision;
  - (b) are to be made by statutory instrument which is subject to annulment in pursuance of a resolution of either House of Parliament.”

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**Commencement Information**

- 11** S. 154 in force at 15.1.2012 for specified purposes by S.I. 2012/57, **art. 4(1)(p)** (with arts. 6, 7, arts. 9-11)
- 12** S. 154 in force at 1.4.2012 in so far as not already in force by S.I. 2012/628, **art. 6(a)** (with arts. 9, 11, 14, 15, 17)

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**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. 158(8)-(9B) substituted for s. 158(8)(9) by [2016 c. 22 s. 121\(2\)\(e\)](#)
- s. 202(3A) inserted by [2023 c. 55 s. 176\(2\)](#)