



Landlord and Tenant Act 1954

1954 CHAPTER 56

PART II

SECURITY OF TENURE FOR BUSINESS, PROFESSIONAL AND OTHER TENANTS

Application to court for new tenancies

29 Order by court for grant of a new tenancy.

- (1) Subject to the provisions of this Act, on an application under subsection (1) of section twenty-four of this Act for a new tenancy the court shall make an order for the grant of a tenancy comprising such property, at such rent and on such other terms, as are hereinafter provided.
- (2) Where such an application is made in consequence of a notice given by the landlord under section twenty-five of this Act, it shall not be entertained unless the tenant has duly notified the landlord that he will not be willing at the date of termination to give up possession of the property comprised in the tenancy.
- (3) No application under subsection (1) of section twenty-four of this Act shall be entertained unless it is made not less than two nor more than four months after the giving of the landlord's notice under section twenty-five of this Act or, as the case may be, after the making of the tenant's request for a new tenancy.

30 Opposition by landlord to application for new tenancy.

- (1) The grounds on which a landlord may oppose an application under subsection (1) of section twenty-four of this Act are such of the following grounds as may be stated in the landlord's notice under section twenty-five of this Act or as the case may be, under subsection (6) of section twenty-six thereof, that is to say:—
 - (a) where under the current tenancy the tenant has any obligations as respects the repair and maintenance of the holding, that the tenant ought not to be granted a new tenancy in view of the state of repair of the holding, being a state resulting from the tenant's failure to comply with the said obligations;

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- (b) that the tenant ought not to be granted a new tenancy in view of his persistent delay in paying rent which has become due;
 - (c) that the tenant ought not to be granted a new tenancy in view of other substantial breaches by him of his obligations under the current tenancy, or for any other reason connected with the tenant's use or management of the holding;
 - (d) that the landlord has offered and is willing to provide or secure the provision of alternative accommodation for the tenant, that the terms on which the alternative accommodation is available are reasonable having regard to the terms of the current tenancy and to all other relevant circumstances, and that the accommodation and the time at which it will be available are suitable for the tenant's requirements (including the requirement to preserve goodwill) having regard to the nature and class of his business and to the situation and extent of and facilities afforded by the holding;
 - (e) where the current tenancy was created by the sub-letting of part only of the property comprised in a superior tenancy and the landlord is the owner of an interest in reversion expectant on the termination of that superior tenancy, that the aggregate of the rents reasonably obtainable on separate lettings of the holding and the remainder of that property would be substantially less than the rent reasonably obtainable on a letting of that property as a whole, that on the termination of the current tenancy the landlord requires possession of the holding for the purpose of letting or otherwise disposing of the said property as a whole, and that in view thereof the tenant ought not to be granted a new tenancy;
 - (f) that on the termination of the current tenancy the landlord intends to demolish or reconstruct the premises comprised in the holding or a substantial part of those premises or to carry out substantial work of construction on the holding or part thereof and that he could not reasonably do so without obtaining possession of the holding ;
 - (g) subject as hereinafter provided, that on the termination of the current tenancy the landlord intends to occupy the holding for the purposes, or partly for the purposes, of a business to be carried on by him therein, or as his residence.
- (2) The landlord shall not be entitled to oppose an application on the ground specified in paragraph (g) of the last foregoing subsection if the interest of the landlord, or an interest which has merged in that interest and but for the merger would be the interest of the landlord, was purchased or created after the beginning of the period of five years which ends with the termination of the current tenancy, and at all times since the purchase or creation thereof the holding has been comprised in a tenancy or successive tenancies of the description specified in subsection (1) of section twenty-three of this Act.

31 Dismissal of application for new tenancy where landlord successfully opposes.

- (1) If the landlord opposes an application under subsection (1) of section twenty-four of this Act on grounds on which he is entitled to oppose it in accordance with the last foregoing section and establishes any of those grounds to the satisfaction of the court, the court shall not make an order for the grant of a new tenancy.
- (2) Where in a case not falling within the last foregoing subsection the landlord opposes an application under the said subsection (1) on one or more of the grounds specified in paragraphs (d), (e) and (f) of subsection (1) of the last foregoing section but establishes

none of those grounds to the satisfaction of the court, then if the court would have been satisfied of any of those grounds if the date of termination specified in the landlord's notice or, as the case may be, the date specified in the tenant's request for a new tenancy as the date from which the new tenancy is to begin, had been such later date as the court may determine, being a date not more than one year later than the date so specified.—

- (a) the court shall make a declaration to that effect, stating of which of the said grounds the court would have been satisfied as aforesaid and specifying the date determined by the court as aforesaid, but shall not make an order for the grant of a new tenancy;
- (b) if, within fourteen days after the making of the declaration, the tenant so requires the court shall make an order substituting the said date for the date specified in the said landlord's notice or tenant's request, and thereupon that notice or request shall have effect accordingly.

32 Property to be comprised in new tenancy.

- (1) Subject to the next following subsection, an order under section twenty-nine of this Act for the grant of a new tenancy shall be an order for the grant of a new tenancy of the holding; and in the absence of agreement between the landlord and the tenant as to the property which constitutes the holding the court shall in the order designate that property by reference to the circumstances existing at the date of the order.
- (2) The foregoing provisions of this section shall not apply in a case where the property comprised in the current tenancy includes other property besides the holding and the landlord requires any new tenancy ordered to be granted under section twenty-nine of this Act to be a tenancy of the whole of the property comprised in the current tenancy; but in any such case—
 - (a) any order under the said section twenty-nine for the grant of a new tenancy shall be an order for the grant of a new tenancy of the whole of the property comprised in the current tenancy, and
 - (b) references in the following provisions of this Part of this Act to the holding shall be construed as references to the whole of that property.
- (3) Where the current tenancy includes rights enjoyed by the tenant in connection with the holding, those rights shall be included in a tenancy ordered to be granted under section twenty-nine of this Act.

33 Duration of new tenancy.

Where on an application under this Part of this Act the court makes an order for the grant of a new tenancy, the new tenancy shall be such tenancy as may be agreed between the landlord and the tenant, or, in default of such an agreement, shall be such a tenancy as may be determined by the court to be reasonable in all the circumstances, being, if it is a tenancy for a term of years certain, a tenancy for a term not exceeding fourteen years, and shall begin on the coming to an end of the current tenancy.

34 Rent under new tenancy.

The rent payable under a tenancy granted by order of the court under this Part of this Act shall be such as may be agreed between the landlord and the tenant or as, in default of such agreement, may be determined by the court to be that at which, having regard to the terms of the tenancy (other than those relating to rent), the holding might

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reasonably be expected to be let in the open market by a willing lessor, there being disregarded—

- (a) any effect on rent of the fact that the tenant has or his predecessors in title have been in occupation of the holding,
- (b) any goodwill attached to the holding by reason of the carrying on thereof of the business of the tenant (whether by him or by a predecessor of his in that business),
- (c) any effect on rent of any improvement carried out by the tenant or a predecessor in title of his otherwise than in pursuance of an obligation to his immediate landlord,
- (d) in the case of a holding comprising licensed premises, any addition to its value attributable to the licence, if it appears to the court that having regard to the terms of the current tenancy and any other relevant circumstances the benefit of the licence belongs to the tenant.

35 Other terms of new tenancy.

The terms of a tenancy granted by order of the court under this Part of this Act (other than terms as to the duration thereof and as to the rent payable thereunder) shall be such as may be agreed between the landlord and the tenant or as, in default of such agreement, may be determined by the court; and in determining those terms the court shall have regard to the terms of the current tenancy and to all relevant circumstances.

36 Carrying out of order for new tenancy.

- (1) Where under this Part of this Act the court makes an order for the grant of a new tenancy, then, unless the order is revoked under the next following subsection or the landlord and the tenant agree not to act upon the order, the landlord shall be bound to execute or make in favour of the tenant, and the tenant shall be bound to accept, a lease or agreement for a tenancy of the holding embodying the terms agreed between the landlord and the tenant or determined by the court in accordance with the foregoing provisions of this Part of this Act; and where the landlord executes or makes such a lease or agreement the tenant shall be bound, if so required by the landlord, to execute a counterpart or duplicate thereof.
- (2) If the tenant, within fourteen days after the making of an order under this Part of this Act for the grant of a new tenancy, applies to the court for the revocation of the order the court shall revoke the order; and where the order is so revoked, then, if it is so agreed between the landlord and the tenant or determined by the court, the current tenancy shall continue, beyond the date at which it would have come to an end apart from this subsection, for such period as may be so agreed or determined to be necessary to afford to the landlord a reasonable opportunity for reletting or otherwise disposing of the premises which would have been comprised in the new tenancy; and while the current tenancy continues by virtue of this subsection it shall not be a tenancy to which this Part of this Act applies.
- (3) Where an order is revoked under the last foregoing subsection any provision thereof as to payment of costs shall not cease to have effect by reason only of the revocation; but the court may, if it thinks fit, revoke or vary any such provision or, where no costs have been awarded in the proceedings for the revoked order, award such costs.
- (4) A lease executed or agreement made under this section, in a case where the interest of the lessor is subject to a mortgage, shall be deemed to be one authorised by section

ninety-nine of the Law of Property Act, 1925 (which confers certain powers of leasing on mortgagors in possession), and subsection (13) of that section (which allows those powers to be restricted or excluded by agreement) shall not have effect in relation to such a lease or agreement.

37 Compensation where order for new tenancy precluded on certain grounds.

- (1) Where on the making of an application under section twenty-four of this Act the court is precluded (whether by subsection (1) or subsection (2) of section thirty-one of this Act) from making an order for the grant of a new tenancy by reason of any of the grounds specified in paragraphs (e), (f) and (g) of subsection (1) of section thirty of this Act and not of any grounds specified in any other paragraph of that subsection, then, subject to the provisions of this Act, the tenant shall be entitled on quitting the holding to recover from the landlord by way of compensation an amount determined in accordance with the following provisions of this section.
- (2) The said amount shall be as follows, that is to say,—
 - (a) where the conditions specified in the next following subsection are satisfied it shall be twice the rateable value of the holding,
 - (b) in any other case it shall be the rateable value of the holding.
- (3) The said conditions are—
 - (a) that, during the whole of the fourteen years immediately preceding the termination of the current tenancy, premises being or comprised in the holding have been occupied for the purposes of a business carried on by the occupier or for those and other purposes;
 - (b) that, if during those fourteen years there was a change in the occupier of the premises, the person who was the occupier immediately after the change was the successor to the business carried on by the person who was the occupier immediately before the change.
- (4) Where the court is precluded from making an order for the grant of a new tenancy under this Part of this Act in the circumstances mentioned in subsection (1) of this section, the court shall on the application of the tenant certify that fact.
- (5) For the purposes of subsection (2) of this section the rateable value of the holding shall be determined as follows:—
 - (a) where in the valuation list in force at the date on which the landlord's notice under section twenty-five or, as the case may be, subsection (6) of section twenty-six of this Act is given a value is then shown as the annual value (as hereinafter defined) of the holding, the rateable value of the holding shall be taken to be that value ;
 - (b) where no such value is so shown with respect to the holding but such a value or such values is or are so shown with respect to premises comprised in or comprising the holding or part of it, the rateable value of the holding shall be taken to be such value as is found by a proper apportionment or aggregation of the value or values so shown ;
 - (c) where the rateable value of the holding cannot be ascertained in accordance with the foregoing paragraphs of this subsection, it shall be taken to be the value which, apart from any exemption from assessment to rates, would on a proper assessment be the value to be entered in the said valuation list as the annual value of the holding ;

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and any dispute arising, whether in proceedings before the court or otherwise, as to the determination for those purposes of the rateable value of the holding shall be referred to the Commissioners of Inland Revenue for decision by a valuation officer.

An appeal shall lie to the Lands Tribunal from any decision of a valuation officer under this subsection, but subject thereto any such decision shall be final.

(6) The Commissioners of Inland Revenue may by statutory instrument make rules prescribing the procedure in connection with references under this section.

(7) In this section—

the reference to the termination of the current tenancy is a reference to the date of termination specified in the landlord's notice under section twenty-five of this Act or, as the case may be, the date specified in the tenant's request for a new tenancy as the date from which the new tenancy is to begin ;

the expression " annual value " means rateable value except that where the rateable value differs from the net annual value the said expression means net annual value;

the expression " valuation officer " means any officer of the Commissioners of Inland Revenue for the time being authorised by a certificate of the Commissioners to act in relation to a valuation list.

38 Restriction on agreements excluding provisions of Part II.

(1) Any agreement relating to a tenancy to which this Part of this Act applies (whether contained in the instrument creating the tenancy or not) shall be void in so far as it purports to preclude the tenant from making an application or request under this Part of this Act or provides for the termination or the surrender of the tenancy in the event of his making such an application or request or for the imposition of any penalty or disability on the tenant in that event.

(2) Where—

(a) during the whole of the five years immediately preceding the date on which the tenant under a tenancy to which this Part of this Act applies is to quit the holding, premises being or comprised in the holding have been occupied for the purposes of a business carried on by the occupier or for those and other purposes, and

(b) if during those five years there was a change in the occupier of the premises, the person who was the occupier immediately after the change was the successor to the business carried on by the person who was the occupier immediately before the change,

any agreement (whether contained in the instrument creating the tenancy or not and whether made before or after the termination of that tenancy) which purports to exclude or reduce compensation under the last foregoing section shall to that extent be void, so however that this subsection shall not affect any agreement as to the amount of any such compensation which is made after the right to compensation has accrued.

(3) In a case not falling within the last foregoing subsection the right to compensation conferred by the last foregoing section may be excluded or modified by agreement.