

New



Revision



Housing Management

Grounds For Possession

Scope: This reference document applies to all group members

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Grounds For Possession

1 Scope

- 1.1 This document should be used for reference and for when NOSPs are being prepared. Below are the grounds for possession for both secure and assured tenancies as amended by the Housing Act 1996.

2 Secure Tenancies

- 2.1 Grounds on which Court may order possession if it considers it reasonable (Grounds 1-8)

Ground 1

Rent lawfully due from the tenant has not been paid or an obligation of the tenancy has been broken or not performed.

Ground 2

The tenant or a person residing in or visiting the dwelling-house -

- (a) has been guilty of conduct causing or likely to cause a nuisance or annoyance to a person residing, visiting or otherwise engaging in a lawful activity in the locality, or
- (b) has been convicted of -
 - (i) using the dwelling-house or allowing it to be used for immoral or illegal purposes, or
 - (ii) an arrestable offence committed in, or in the locality of, the dwelling-house

Ground 2A

The dwelling-house was occupied (whether alone or with others) by a married couple or a couple living together as man and wife and -

- (a) one or both of the partners is a tenant of the dwelling-house
- (b) one partner has left because of violence or threats of violence by the other towards -

- (i) that partner, or
 - (ii) a member of the family of that partner who was residing with that partner immediately before the partner left, and
- (c) the court is satisfied that the partner who has left is unlikely to return

Ground 3

The condition of the dwelling-house or of any of the common parts has deteriorated owing to acts of waste by, or the neglect or default of, the tenant or a person residing in the dwelling-house and, in the case of an act of waste by, or the neglect or default of, a person lodging with the tenant or a sub-tenant of his, the tenant has not taken such steps as he ought reasonably to have taken for the removal of the lodger or sub-tenant.

Ground 4

The condition of furniture provided by the landlord for use under the tenancy, or for use in the common parts, has deteriorated owing to ill-treatment by the tenant or a person residing in the dwelling-house and, in the case of ill-treatment by a person lodging with the tenant or a sub-tenant of his, the tenant has not taken such steps as he ought reasonably to have taken for the removal of the lodger or sub-tenant.

Ground 5

The tenant is the person, or one of the persons, to whom the tenancy was granted and the landlord was induced to grant the tenancy by a false statement made knowingly or recklessly by-

- (a) the tenant, or
- (b) a person acting at the tenant's instigation.

Ground 6

The tenancy was assigned to the tenant, or to a predecessor in title of his who is a member of his family and is residing in the dwelling-house, by an assignment made by virtue of section 92 (assignments by way of exchange) and a premium was paid either in connection with that assignment or the assignment which the tenant or predecessor himself made by virtue of that section.

In this paragraph “premium” means any fine or other like sum and any other pecuniary consideration in addition to rent.

Ground 7

The dwelling-house forms part of, or is within the curtilage of, a building which, or so much of it as is held by the landlord, is held mainly for purposes other than housing purposes and consists mainly of accommodation other than housing accommodation, and -

- (a) the dwelling-house was let to the tenant or a predecessor in title of his in consequence of the tenant or predecessor being in the employment of the landlord, or of -
 - (i) a local authority
 - (ii) a new town corporation
 - (iii) a housing action trust
 - (iv) an urban development corporation
 - (v) the Development Board for Rural Wales, or
 - (vi) the governors of an aided school, and
- (b) the tenant or person residing in the dwelling-house has been guilty of conduct such that, having regard to the purpose for which the building is used, it would not be right for him to continue in occupation of the dwelling-house.

Ground 8

The dwelling-house was made available for occupation by the tenant (or his predecessor in title of his) while works were carried out on the dwelling-house which he previously occupied as his only or principal home and-

- (a) the tenant (or predecessor) was a secure tenant of the other dwelling-house at the time when he ceased to occupy it as his home,
- (b) the tenant (or predecessor) accepted the tenancy of the dwelling-house of which possession is sought on the understanding that he would give up occupation when, on completion of the works, the other dwelling-

house was again available for occupation by him under a secure tenancy, and

- (c) the works have been completed and the other dwelling-house is so available.

2.2 Grounds on which the Court may order possession if suitable alternative accommodation is available (Grounds 9-11)

Ground 9

The dwelling-house is overcrowded within the meaning of Part X, in such circumstances as to render the occupier guilty of an offence.

Ground 10

The landlord intends, within a reasonable time of obtaining the possession of the dwelling-house -

- (a) to demolish or reconstruct the building or part of the building comprising the dwelling-house, or
- (b) to carry out work on that building or on land let together with, and thus treated as part of, the dwelling-house, and cannot reasonably do so without obtaining possession of the dwelling-house.

Ground 10A

The dwelling-house is in an area which is the subject of a redevelopment scheme approved by the Secretary of State or the Housing Corporation in accordance with Part V of this Schedule and the landlord intends within a reasonable time of obtaining possession to dispose of the dwelling-house in accordance with the scheme.

or

Part of the dwelling-house is in such an area and the landlord intends within a reasonable time of obtaining possession to dispose of that part in accordance with the scheme and for that purpose reasonably requires possession of the dwelling-house.

Ground 11

The landlord is a charity and the tenant's continued occupation of the dwelling-house would conflict with the objects of the charity.

- 2.3 Grounds on which Court may order possession if it considers it reasonable and suitable alternative accommodation is available (Grounds 12-16)

Ground 12

the dwelling-house forms part of, or is within the curtilage of, a building which, or so much of it is held by the landlord, is held mainly for purposes other than housing purposes and consists mainly of accommodation other than housing accommodation, or is situated in a cemetery, and

- (a) the dwelling-house was let to the tenant or a predecessor in title of his in consequence of the tenant or predecessor being in the employment of the landlord, or of -
 - (i) a local authority
 - (ii) a new town corporation
 - (iii) a housing action trust
 - (iv) an urban development corporation
 - (v) the Development Board for Rural Wales, or
 - (vi) the governors of an aided school,
 - (vii) and that employment has ceased, and
- (b) the landlord requires the dwelling-house for occupation as a residence for some person either engaged in the employment of the landlord, or of such a body, or with whom a contract for such employment has been entered into conditional on housing being provided.

Ground 13

The dwelling-house has features which are substantially different from those of ordinary dwelling-houses and which are designed to make it suitable for occupation by a physically disabled person who requires accommodation of a kind provided by the dwelling-house and -

- (a) there is no longer such a person residing in the dwelling-house, and
- (b) the landlord requires it for occupation (whether alone or with members of his family) by such a person.

Ground 14

The landlord is a housing association or a housing trust which lets dwelling-houses only for occupation (whether alone or with others) by persons whose circumstances (other than merely financial circumstances) make it especially difficult for them to satisfy their need for housing, and -

- (a) either there is no longer such a person residing in the dwelling-house or the tenant has received from a local housing authority an offer of accommodation in premises which are to be let as a separate dwelling under a secure tenancy, and
- (b) the landlord requires the dwelling-house for occupation (whether alone or with members of his family) by such a person.

Ground 15

The dwelling-house is one of a group of dwelling-houses which it is the practice of the landlord to let for occupation by persons with special needs and

- (a) a social service or special facility is provided in close proximity to the group of dwelling-houses in order to assist persons with those special needs,
- (b) there is no longer a person with those special needs residing in the dwelling-house, and
- (c) the landlord requires the dwelling-house for occupation (whether alone or with members of his family) by a person who has those special needs.

Ground 16

The accommodation afforded by the dwelling-house is more extensive than is reasonably required by the tenant and -

- (a) the tenancy vested in the tenant by virtue of section 89 (succession to periodic tenancy), the tenant being qualified to succeed by virtue of section 87(b) (members of family other than spouse), and
- (b) notice of the proceedings for possession was served under section 83 (or, where no such notice was served, the possession proceedings were begun) more than six months but less than 12 months after the date of the previous tenant's death.

The matters to be taken into account by the court in determining whether it is reasonable to make an order on this ground include -

- (a) the age of the tenant
- (b) the period during which the tenant has occupied the dwelling-house as his only or principal home, and
- (c) any financial or other support given by the tenant to the previous tenant.

3 Assured Tenancies

3.1 Grounds on which Court must order possession (Grounds 1-8)

Ground 1

Not later than the beginning of the tenancy the landlord gave notice in writing to the tenant that possession might be recovered on this ground or the court is of the opinion that it is just and equitable to dispense with the requirement of notice and (in either case)-

- (a) at some time before the beginning of the tenancy, the landlord who is seeking possession or, in the case of joint landlords at least one of them occupied the dwelling-house as his only or principal home; or
- (b) the landlord who is seeking possession or, in the case of joint landlords seeking possession, at least one of them requires the dwelling-house as his or his spouse's only or principal home and neither the landlord (or, in the case of joint landlords, any one of them) nor any other person who, as landlord, derived title under the landlord who gave the notice mentioned above acquired the reversion on the tenancy for money or money's worth.

Ground 2

The dwelling-house is subject to a mortgage granted before the beginning of the tenancy and -

- (a) the mortgagee is entitled to exercise a power of sale conferred on him by the mortgage or by section 101 of the Law of Property Act 1925; and
- (b) the mortgagee requires possession of the dwelling-house for the purpose of disposing of it with vacant possession in exercise of that power: and
- (c) either notice was given as mentioned in Ground 1 above or the court is satisfied that it is just and equitable to dispense with the requirement of notice;

and for the purposes of this ground “mortgage” includes a charge and “mortgagee” shall be construed accordingly.

Ground 3

The tenancy is a fixed term tenancy for a term not exceeding eight months and-

- (a) not later than the beginning of the tenancy the landlord gave notice in writing to the tenant that possession might be recovered on this ground; and
- (b) at some time within the period of twelve months ending with the beginning of the tenancy, the dwelling-house was occupied under a right to occupy it for a holiday.

Ground 4

The tenancy is a fixed term tenancy not exceeding twelve months and -

- (a) not later than the beginning of the tenancy the landlord gave notice in writing to the tenant that possession might be recovered on this ground; and
- (b) at some time within the period of twelve months ending with the beginning of the tenancy, the dwelling-house was let on a tenancy falling within paragraph 8 of Schedule 1 to this Act.

Ground 5

The dwelling-house is held for the purpose of being available for occupation by a minister of religion as a residence from which to perform the duties of his office and -

- (a) not later than the beginning of the tenancy the landlord gave notice in writing to the tenant that possession might be recovered on this ground; and
- (b) the court is satisfied that the dwelling-house is required for occupation by a minister of religion as such a residence.

Ground 6

The landlord who is seeking possession or, if that landlord is a registered social landlord or charitable housing trust, a superior landlord intends to demolish or reconstruct the whole or a substantial part of the dwelling-house or to carry out substantial works on the dwelling-house or any part thereof or any building of which it forms a part and the following conditions are fulfilled-

- (a) the intended work cannot reasonably be carried out without the tenant giving up possession of the dwelling-house because -
 - (i) the tenant is not willing to agree to such a variation of the terms of the tenancy as would give such access and other facilities that would permit the intended work to be carried out, or
 - (ii) the nature of the intended work is such that no variation is practicable, or
 - (iii) the tenant is not willing to accept an assured tenancy of such part only of the dwelling-house (in this sub-paragraph referred to as "the reduced part") as would leave in the possession of his landlord so much of the dwelling-house as would be reasonable to enable the intended work to be carried out and, where appropriate, as would give such access and other facilities over the reduced part as would permit the intended work to be carried out, or
 - (iv) the nature of the intended work is such that such a tenancy is not practicable, and

- (b) either the landlord seeking possession acquired his interest in the dwelling-house before the grant of the tenancy or that interest was in existence at the time of that grant and neither that landlord (or, in the case of joint landlords, any of them) nor any other person who, alone or jointly with others, has acquired that interest since that time acquired it for money or money's worth; and
- (c) the assured tenancy on which the dwelling-house is let did not come into being by virtue of any provision of Schedule 1 to the Rent Act 1977, as amended by Part I of Schedule 4 to this Act or, as the case may be, section 4 of the Rent (Agriculture) Act 1976, as amended by Part II of that Schedule.

For the purposes of this ground, if, immediately before the grant of the tenancy, the tenant to whom it was granted or, if it was granted to joint tenants, any of them was the tenant or one of the joint tenants of the dwelling-house concerned under an earlier assured tenancy or, as the case may be, under a tenancy to which Schedule 10 to the Local Government and Housing Act 1989 applied any reference in paragraph (b) above to the grant of the tenancy is a reference to the grant of that earlier assured tenancy or, as the case may be, to the grant of the tenancy to which the said Schedule 10 applied.

For the purposes of this ground "registered social landlord" has the same meaning as in the Housing Act 1985 (see section 5(4) and (5) of that Act) and "charitable housing trust" means a housing trust, within the meaning of the Housing Associations Act 1985, which is a charity, within the meaning of the Charities Act 1993.

For the purposes of this ground, every acquisition under Part IV of this Act shall be taken to be an acquisition for money or money's worth; and in any case where

- (i) the tenancy (referred to in this paragraph as "the current tenancy") was granted to a person (alone or jointly with others) who, immediately before it was granted, was a tenant under a tenancy of a different dwelling-house (in this paragraph referred to as "the earlier tenancy", and

- (ii) the landlord under the current tenancy is the person who, immediately before the tenancy was granted, was the landlord of the earlier tenancy, and
- (iii) the condition in paragraph (b) above could not have been fulfilled with respect to the earlier tenancy by virtue of an acquisition under Part IV of this Act (including one taken to be such an acquisition by virtue of the previous operation of this paragraph), the acquisition of the landlord's interest under the current tenancy shall be taken to have been under that Part and the landlord shall be taken to have acquired that interest after the grant of the current tenancy.

Ground 7

The tenancy is a periodic tenancy (including a statutory periodic tenancy) which has devolved under the will or intestacy of the former tenant and the proceedings for the recovery of possession are begun not later than 12 months after the death of the former tenant or, if the court so directs, after the date on which, in the opinion of the court, the landlord or, in the case of joint landlords, any one of them became aware of the former tenant's death.

For the purposes of this ground, the acceptance by the landlord of rent from a new tenant after the death of the former tenant shall not be regarded as creating a new periodic tenancy, unless the landlord agrees in writing to a change (as compared with the tenancy before the death) in the amount of rent, the period of the tenancy, the premises which are let or any other term of the tenancy.

Ground 8

Both at the date of the service of the notice under section 8 of this Act relating to the proceedings for possession and at the date of the hearing -

- (a) if rent is payable weekly or fortnightly, at least eight weeks' rent is unpaid;
- (b) if rent is payable monthly, at least two months' rent is unpaid;
- (c) if the rent is payable quarterly, at least one quarter's rent is more than three months in arrears; and

- (d) if rent is payable yearly, at least three months' rent is more than three months in arrears;

and for the purpose of this ground "rent" means rent lawfully due from the tenant.

3.2 Grounds on which Court may order possession (Grounds 9-17)

Ground 9

Suitable alternative accommodation is available for the tenant or will be available for him when the order for possession takes effect.

Ground 10

Some rent lawfully due from the tenant -

- (a) is unpaid on the date on which the proceedings for possession are begun; and
- (b) except where subsection (1)(b) of section 8 of this Act applies, was in arrears at the date of the service of the notice under that section relating to those proceedings.

Ground 11

Whether or not any rent is in arrears on the date on which proceedings for possession are begun, the tenant has persistently delayed paying rent which has become lawfully due.

Ground 12

Any obligation of the tenancy (other than one related to the payment of rent) has been broken or not performed.

Ground 13

The condition of the dwelling-house or of any of the common parts has deteriorated owing to acts of waste by, or the neglect or default of, the tenant or any other person residing in the dwelling-house and, in the case of an act of waste by, or the neglect or default of, a person lodging with the tenant or sub-tenant of his, the tenant has not taken such steps as he ought reasonably to have taken for the removal of the lodger or sub-tenant.

For the purposes of this ground, “common parts” means any part of a building comprising the dwelling house and any other premises which the tenant is entitled under the terms of the tenancy to use in common with the occupiers of other dwelling houses in which the landlord has an estate or interest.

Ground 14

The tenant or a person residing in or visiting the dwelling-house -

- (a) has been guilty of conduct causing or likely to cause a nuisance or annoyance to a person residing, visiting or otherwise engaging in a lawful activity in the locality, or
- (b) has been convicted of -
 - (i) using the dwelling-house or allowing it to be used for immoral or illegal purposes, or
 - (ii) an arrestable offence committed in, or in the locality of, the dwelling-house

Ground 14A

The dwelling-house was occupied (whether alone or with others) by a married couple or a couple living together as man and wife and -

- (a) one or both of the partners is a tenant of the dwelling-house
- (b) the landlord who is seeking possession is a registered social landlord of a charitable housing trust
- (c) one partner has left because of violence or threats of violence by the other towards -
 - (i) that partner, or
 - (ii) a member of the family of that partner who was residing with that partner immediately before the partner left, and
- (d) the court is satisfied that the partner who has left is unlikely to return

For the purposes of this ground “registered social landlord” and “member of the family” have the same meaning as in Part I of the Housing Act 1996 and “charitable housing trust” means a housing trust, within the meaning of the

Housing Associations Act 1985, which is a charity within the meaning of the Charities Act 1993.

Ground 15

The condition of any furniture provided for use under the tenancy has, in the opinion of the court, deteriorated owing to ill-treatment by the tenant or any other person residing in the dwelling house and, in the case of ill-treatment by a person lodging with the tenant or by a sub-tenant of his, the tenant has not taken such steps as he ought reasonably to have taken for the removal of the lodger or sub-tenant.

Ground 16

The dwelling house was let to the tenant in consequence of his employment by the landlord seeking possession or a previous landlord under the tenancy and the tenant has ceased to be in that employment.

For the purposes of this ground, at a time when the landlord is or was the Secretary of State, employment by a health service body, as defined in section 60(7) of the National Health Service and Community Care Act 1990, shall be regarded as employment by the Secretary of State.

Ground 17

The tenant is the person, or one of the persons, to whom the tenancy was granted and the landlord was induced to grant the tenancy by a false statement made knowingly or recklessly by

- (a) the tenant, or
- (b) a person acting at the tenant's instigation.