Protection from Eviction Act 1964

1964 CHAPTER 97

An Act to restrict eviction from dwellings ; to postpone the decontrol of formerly requisitioned dwellings ; and for purposes connected therewith. [17th December 1964]

BE IT ENACTED by the Queen's most Excellent Majesty, by and with the advice and consent of the Lords Spiritual and Temporal, and Commons, in this present Parliament assembled, and by the authority of the same, as follows:—

Restriction on recovery of possession.

1.—(1) Where any premises have been let as a dwelling and on the termination, whether before or after the commencement of this Act, of the tenancy (in this Act referred to as the former tenancy) any of the following persons remains in occupation of the premises or part of them and in residence therein, that is to say,—

(*a*) the tenant under the former tenancy ;

(*b*) any person to whom the premises or part thereof have been lawfully sublet as a dwelling ;

(*c*) the widow or widower of any such person as is mentioned in paragraph (*a*) or (*b*) of this subsection residing with him at his death or, if that person leaves no such widow or widower, any member of his family residing with him at his death ;

then, unless the former tenancy is excluded from the operation of this section, the following provisions of this Act shall apply with respect to the recovery of possession of the premises or part.

(2) In this Act " the occupier ", in relation to any premises, means the person remaining in occupation and in residence as

mentioned in subsection (1) of this section; and "the owner", in relation to any premises, means the person who, as against the occupier, is entitled to possession thereof.

(3) It shall not be lawful for the owner of any premises—

(*a*) to enforce against the occupier, otherwise than by proceedings in the court, his right to recover possession of the premises; or

(*b*) to withhold or withdraw from the occupier any services or furniture which are for the time being provided for him, except to the extent authorised in the proceedings or for reasonable cause;

and if any person contravenes the provisions of this subsection he shall, without prejudice to any liability or remedy to which he may be subject in civil proceedings, be liable on summary conviction to a fine not exceeding one hundred pounds or to imprisonment for a term not exceeding six months, or to both.

(4) In any proceedings for an offence under this section it shall be a defence to prove that the owner believed, and had reasonable cause to believe, that the occupier had ceased to reside in the premises.

(5) Where an offence under this section committed by a body corporate is proved to have been committed with the consent or connivance of, or to be attributable to any neglect on the part of, any director, manager, secretary or other similar officer of the body corporate or any person who was purporting to act in any such capacity, he as well as the body corporate shall be guilty of that offence and shall be liable to be proceeded against and punished accordingly.

(6) For the purposes of this Act a person who, whilst employed in agriculture (as defined in section 17(1) of the Agricultural Wages Act 1948 or section 17 of the Agricultural Wages (Scotland) Act 1949) occupied any premises or part thereof under the terms of his employment shall be deemed to have been a tenant and the expressions "let" and "tenancy" shall be construed accordingly. 1948 c. 47. 1949 c. 30.

(7) In the application of this section to Scotland the following provision shall have effect in lieu of paragraph (*a*) of subsection (3), that is to say, if the owner of any premises enforces against the occupier, otherwise than by due process of law, his right to recover possession of the premises he shall be deemed to have contravened that subsection.

Suspension of execution of order for possession.

2.—(1) Without prejudice to any power of the court apart from this section to postpone the operation or suspend the execution of an order for possession, if in proceedings by the owner against the occupier of any premises the court makes

or has before the commencement of this Act made an order for possession the court may suspend the execution of the order for such period, not exceeding twelve months from the date of the order, as the court thinks reasonable.

(2) Where the court by virtue of this section suspends the execution of an order for the possession of any premises it may authorise the withdrawal from the occupier of any specified services or furniture and impose such terms and conditions, including conditions as to the payment by the occupier of arrears of rent, rent or mesne profits and otherwise, as the court thinks reasonable.

(3) The court may from time to time vary the period of suspension or terminate it and may vary any terms or conditions imposed by virtue of this section, but shall not extend the period of suspension beyond the end of twelve months from the date of the order for possession.

(4) In considering whether or how to exercise its powers under this section the court shall have regard to all the circumstances and, in particular, to the following, that is to say,—

(*a*) whether the occupier has failed (whether before or after the termination of the former tenancy) to observe any terms or conditions thereof;

(*b*) whether he has unreasonably refused an offer of a tenancy of the premises or part of the premises for a reasonable term and at a reasonable rent;

(*c*) whether he has failed to make reasonable efforts to obtain other suitable accommodation;

(*d*) whether, in a case where the premises were occupied by the tenant under the former tenancy under the terms of his employment as a person employed in agriculture (within the definition referred to in section 1(6) of this Act), the efficient management of any agricultural land would be seriously prejudiced unless the premises were available for occupation by a person employed or to be employed by the owner; and

(*e*) whether greater hardship would be caused by the suspension of the execution of the order for possession than by its execution without suspension or further suspension.

(5) Where in proceedings for the recovery of possession of any premises the court makes an order for possession but suspends the execution of the order by virtue of subsection (1) of this section it shall make no order for costs, unless it appears to the court, having regard to the conduct of the owner or of the occupier, that there are special reasons for making such an order.

(6) In the application of this section to Scotland—

(*a*) for any reference to an order for possession there shall be substituted a reference to a decree of removing or warrant of ejection,

(*b*) for the reference to mesne profits there shall be substituted a reference to damages arising from unlawful possession, and

(*c*) for the reference to costs, there shall be substituted a reference to expenses.

Restrictions on operation of foregoing sections.

3.—(1) The foregoing provisions of this Act do not apply where the former tenancy was—

(*a*) a tenancy of premises in England or Wales of which the net annual value for rating exceeds the limit for the time being imposed by section 48 of the County Courts Act 1959 (jurisdiction in actions for recovery of land); 1959 c. 22.

(*b*) a tenancy to which the Rent and Mortgage Interest Restriction Acts 1920 to 1939 or Part I of the Landlord and Tenant Act 1954 applied immediately before the termination thereof; 1954 c. 56.

(*c*) a tenancy to which Part II of the Landlord and Tenant Act 1954 applied or would have applied but for section 43 thereof;

(*d*) a tenancy to which any of the following Acts apply, that is to say—

(i) the Small Landholders (Scotland) Acts 1886 to 1931;

(ii) the Tenancy of Shops (Scotland) Act 1949; 1949 c. 25.

(iii) the Agricultural Holdings (Scotland) Act 1949; 1949 c. 75.

(iv) the Crofters (Scotland) Acts 1955 and 1961.

(2) Nothing in this Act shall affect the operation of the Small Tenements Recovery Act 1838 in so far as it has been applied by any other Act, or of section 22(2), 45(3) or 85(2) of the Housing Act 1957. 1838 c. 74. 1957 c. 56.

(3) Nothing in this Act shall affect the operation of section 59 of the Pluralities Act 1838 or of section 6 of the Lecturers and Parish Clerks Act 1844. 1838 c. 106. 1844 c. 59.

The court.

4.—(1) In this Act, " the court "—

(*a*) in relation to premises in England or Wales, means the county court;

(*b*) in relation to premises in Scotland, means the sheriff.

(2) Any powers of a county court in proceedings for the recovery of possession of any premises in circumstances where the powers conferred by this Act are or may be exercisable may be exercised by any registrar of the court, except in so far as rules of court otherwise provide.

(3) Where, by virtue of section 1(3) of this Act, it is not lawful for the owner of any premises to enforce against the occupier his right to recover possession of the premises except by proceedings in the county court, but the High Court has before the commencement of this Act made an order for possession in proceedings by the owner against the occupier, the order shall, on application made by the owner to the county court, be treated for the purpose of execution as if the proceedings had been taken in, and the order made by, the county court, and section 2 of this Act shall have effect accordingly.

Postponement of decontrol of formerly requisitioned dwellings. 1957 c. 25. 1955 c. 24.

5. Section 11(5) of the Rent Act 1957 (which extended, until the end of March 1965, the application of the Rent Acts to certain dwellings to which those Acts would otherwise have ceased to apply) and section 4(4) of the Requisitioned Houses and Housing (Amendment) Act 1955 (which enables local authorities in England and Wales to pay part of the rent in respect of such dwellings) shall each have effect as if the year mentioned therein were 1966.

Short title, duration and extent.

6.—(1) This Act may be cited as the Protection from Eviction Act 1964.

(2) This Act, except section 5, shall continue in force until the end of the year 1965, and shall then expire.

1889 c. 63.

(3) On the expiration of this Act section 38(2) of the Interpretation Act 1889 (effect of repeals) shall have effect as if this Act had been repealed by another Act; and without prejudice to the generality of the foregoing provision, any suspension then in force of the execution of an order for possession or of a decree of removing or warrant of ejection shall continue in force and may be terminated as if this Act had not expired.

(4) This Act does not extend to Northern Ireland.