

**HOUSING (SPECIAL POWERS) ACT**

**Repealed by Act 2007-36 as from 1.6.2008**

**Principal Act**

<b>Act. No. 1972-11</b>	<i>Commencement</i>	1.11.1972
	<i>Assent</i>	11.5.1972

	Amending enactments	Relevant current provisions	Commencement date
Acts.	1973-18	ss.8 and 11(1)	
	1975-09	s.1	
	1976-31	Sch. 1	
	1976-36	ss.2, 4, 5, 6(1) and (2), 11(2), 11A, 11B, 13(1) and Sch.2	
	1990-40	ss.2, 4 and 8	15.11.1990
	2007-17	ss. 15(1), Sch. 1	14.6.2007

English source  
None cited

**RE-NUMBERRING OF SECTIONS**

Old number	New number
1	1
2	2
3	3
4	4
5	5
6	6
7	7
8	8
9	9
10	10
11	11
11A	12
11B	13
12	14
13	15
14	16

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**SCHEDULE 3.**

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**1972-11**  
**Repealed**

## Housing (Special Powers)

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AN ACT TO FURTHER THE PROPER AND EFFECTIVE USE OF ACCOMMODATION ALLOTTED BY THE GOVERNMENT IN SUCH A MANNER AS TO PROMOTE THE PUBLIC BENEFIT BY PROVIDING FOR THE RESUMPTION OF ANY SUCH ACCOMMODATION WHENEVER IT IS NOT IN THE PERSONAL OCCUPATION OF THE TENANT TO WHOM IT HAS BEEN ALLOTTED, AND FOR CERTAIN ANCILLARY PURPOSES.

**Short title.**

1. This Act may be cited as the Housing (Special Powers) Act.

**Interpretation.**

2. In this Act, unless the context otherwise requires—

“agreement” means a tenancy agreement between the Director of Crown Lands or the Housing Manager for and on behalf of the Government and tenant;

“committee” means the Housing Allocation Committee established under section 3;

“dwelling” means a flat or other building or part of a building occupied or intended to be occupied as a dwelling;

“entitled person” means

- (a) the widow or widower, as the case may be, of the deceased tenant living with the tenant at the time of death;
- (b) where the deceased tenant leaves no widow or widower or if such widow or widower was not living with the tenant at the time of death, the father, mother or child over the age of 18 years (in that order and where there is more than one such child the eldest such child) of the deceased tenant, provided that such person had been living with the deceased tenant for not less than 12 months immediately prior to the tenant’s death;

“premises” means premises owned by the Government and used as a dwelling under a weekly or monthly tenancy agreement, having been allocated by the Government to a tenant;

“tenant” means a tenant occupying premises under an agreement;

“year” means any period of twelve consecutive calendar months

**Housing Allocation Committee.**

3. (1) There shall be established a committee, to be known as the Housing Allocation Committee

(2) The provisions contained in Schedule 1 shall have effect with respect to the functions, constitution and proceedings of the committee

**Personal occupation essential.**

4. (1) Subject to any express agreement to the contrary and to the provisions of this Act and any rules made thereunder, it shall be a condition of occupation of any premises let by the Government under any agreement that the tenant shall be entitled to possession of the premises under the agreement relating to such premises so long as, but only so long as, he personally occupies the premises comprised in such agreement for not less than 270 days in every year

(2) A person shall not be deemed to be in personal occupation for the purposes of subsection (1) on any day in which he does not sleep in such premises or is not making regular use thereof, the proof whereof shall lie on the tenant.

**Notice to terminate tenancy.**

5.(1) If the Housing Manager has reason to believe that a tenant has not been in personal occupation of the premises for 270 or more days, or will not be able to be in personal occupation for 270 or more days in any year, and the tenant has not terminated the agreement, he may, with the approval of the committee, on behalf of the Government serve notice on the tenant in Form A in Schedule 2

Such notice shall state that it is proposed to terminate the tenancy created by the agreement relating to such premises on the ground that the tenant has not been, or will not be able to be, in personal occupation for 270 or more days in the year specified in the notice and that the tenant may, within 14 days from the service of the notice, appeal by way of complaint to the magistrates' court, on the grounds that he was in personal occupation for 270 days in the year specified or will be able to be in personal occupation of the premises for more than 270 days in the calendar year so specified

(2) Notwithstanding anything contained in subsection (1) no notice shall specify any calendar year more than one year previous to the calendar year in which the notice was served

**Right of appeal against notice.**

6. (1) Where a notice under section 5 has been served on a tenant in respect of any premises, the tenant may, within 14 days from the service of the notice, appeal to the magistrates' court on the ground that he was in personal occupation of the premises for more than 270 days in the year specified or will be able to be in occupation of the premises for more than 270 days in the year so specified

(2) On an appeal under this section the court, if satisfied that the tenant was in personal occupation, or will be able to be in personal occupation, for 270 days or more, shall by order cancel the notice but shall otherwise, by order, confirm it. The burden of proof that the tenant was in personal occupation for 270 days or more shall lie upon the tenant

(3) A notice served under section 5 shall, unless previously withdrawn by the Housing Manager with the approval of the committee, become final—

- (a) where no appeal under this section is brought against it within the time mentioned in subsection (1) of this section, at the end of fourteen days from the expiration of that time;
- (b) where such an appeal is so brought but is withdrawn or dismissed for want of prosecution, at the end of fourteen days from the date of withdrawal or dismissal of the appeal;
- (c) where such an appeal is so brought, is not withdrawn or dismissed, and is finally determined by the confirmation of the notice, at the end of fourteen days from the date of the final determination of the appeal

(4) The procedure under this section shall be by way of complaint for an order, and the Magistrates' Court Act shall apply to the proceedings; and for the purposes of this section the making of a complaint shall be deemed to be the bringing of the appeal

(5) A person aggrieved by an order made by the magistrates' court on determining a complaint under this Act may appeal therefrom to the Supreme Court; and for the avoidance of doubt it is hereby declared that the Housing Manager may be a person aggrieved within the meaning of this subsection

### **Determination of tenancy.**

7. When a notice relating to any tenancy has been served under section 5 and has become final under section 6(3) the Housing Manager shall forthwith determine the tenancy by serving on the tenant a notice in Form B in Schedule 2, and any rent paid by or on behalf of the tenant under the

tenancy agreement for the premises for any period thereafter shall be returned to him

**Service of notice.**

8. A notice under section 5 or 7 shall be served—

- (a) by properly addressing, preparing and posting by registered post a letter containing the notice to the tenant; or
- (b) by posting a copy of the notice on the front door of the premises

**Entry on and disposal of property on the premises.**

9. (1) The Housing Manager may, on the determination of a tenancy under section 7—

- (a) enter upon the premises and remove therefrom all movable property therein;
- (b) sell any perishable goods therein

(2) The Housing Manager shall, on removing under subsection (1) any movable property from any premises—

- (a) give the tenant notice of such removal, in the manner prescribed by section 8;
- (b) notify such removal by a notification in the Gazette stating that such property is held under the provisions of this Act and that it will, unless duly claimed within the period of six months from the date of publication of such notification, vest in and become the property of the Government

(3) Subject to any claim made under subsection (2) and to the rights of any third party therein, any movable property of a tenant removed under this section shall, on the expiration of a period of six months from the date of publication of the notification referred to in subsection (2), vest in and become the property of the Government

**Claim by tenant.**

10. The tenant may, at any time within one year from the date of determination of his tenancy under this Act, claim from and shall in such event be paid by the Government the amount of the proceeds of the sale of any movable or perishable property sold under section 9:



Provided that there shall be deducted therefrom an amount certified by the Accountant General and comprising the amount of the expenses of the Government in relation to such sale, the cost of any repairs or renovations necessary on the determination of the tenancy (other than those due to fair wear and tear) to render the premises fit for occupation, and any other sum then due from the tenant to the Government

### **Penalty for unlawful occupation.**

11. (1) A person who enters into possession of or remains in occupation of any premises after the tenancy in respect of those premises has been determined under section 7, and whether such person is the tenant on whom notice was served or not, is guilty of an offence and is liable, on summary conviction, to a fine of £200

(2) Where any person has been found guilty of an offence against subsection (1) the court may, in lieu of or in addition to any penalty, make an order for possession of the premises

### **New tenancy.**

12. Where a tenant has died the Housing Manager shall if the entitled person so requires and complies with the provisions of any rules governing the entering into of such new agreement, enter into an agreement with the entitled person in respect of the premises on the same terms and conditions as the agreement with the deceased tenant or such other terms and conditions as the committee may approve

### **Right of entry.**

13. (1) Where any damage has occurred to, or is likely to occur to, any premises whether the subject of this Act or not and in the opinion of the Housing Manager, or any other person authorized by him either generally or specifically, an emergency exists and it is necessary to enter any premises subject to the provisions of this Act to abate or prevent such damage or prevent any further damage he may enter such premises and take such steps as may be reasonably necessary for such abatement or prevention

(2) Where any person has entered any premises in the exercise of the powers conferred by subsection (1), he shall do as little damage as is reasonably possible and shall, if the tenant is not present, on leaving the premises, ensure they are properly secured and shall, as soon as is reasonably possible inform the tenant of his action

### **Regulations relating to accommodation.**

14. The regulations set out in Schedule 3 shall be observed by the tenants of all premises, and shall replace those set out in Schedule 3 to the standard

form of tenancy agreement subsisting on the date of the coming into force of this Act

**Rules.**

15. (1) The Minister responsible for housing may make rules for carrying the provisions of this Act into effect, and without prejudice to the generality of this power may make rules providing for—

- (a) prescribing the circumstances in which failure to occupy the premises for 270 or more days in a year shall not render the tenant liable to have his tenancy terminated;
- (aa) prescribing the circumstances in which failure to occupy the premises for 270 days in a year may not render the tenant liable to have his tenancy terminated;
- (b) prescribing the persons who may occupy premises of an absent tenant (whether or not such tenant is entitled not to have his tenancy terminated) and the terms and conditions of such occupation;
- (c) the procedure to be followed by the committee and the Housing Manager in giving effect to the provisions of this Act;
- (d) the storage of any goods or property removed from any premises pursuant to section 9;
- (e) exchanges of premises by tenants, and the conditions under which such exchanges may be approved;
- (f) appeals to the Minister responsible for housing by any tenant aggrieved by the exercise of any powers conferred by this Act;
- (g) altering, adding to or amending any of the provisions of the Schedules to this Act

(2) No rules shall be made under subsection (1) unless a draft thereof has been laid before the Assembly and has been approved by resolution of the House

**Saving.**

16. Save as hereinbefore provided, nothing in this Act shall affect the provisions of any tenancy agreement between any tenant and the Government.

## SCHEDULE 1.

Sections 3(2) and 15.

### CONSTITUTION OF HOUSING ALLOCATION COMMITTEE.

1. In this Schedule “committee” means the Housing Allocation Committee established by section 3.
2. The committee shall administer any scheme on the allocation of Government housing approved by the Government and when so required by the Government make such recommendations on the most equitable and effective use of Government housing as the committee may think appropriate, in addition to exercising the powers conferred upon the committee by this Act.
3. The committee shall, consist of five members, of whom one shall be chairman.
4. Members of the committee shall be appointed by the Minister responsible for housing and shall hold office for such period as may be specified in their instruments of appointment, and shall be eligible for re-appointment.
  - 4A. Notwithstanding anything contained in paragraph 4, the Minister responsible for housing may, in his discretion, terminate the appointment of any member of the committee at any time.
5. Three members of the committee shall form a quorum.
6. Subject to the provisions of this Schedule, the procedure of the committee shall be regulated by the committee.

Housing (Special Powers)

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SCHEDULE 2.

FORM A.

Section 5.

HOUSING (SPECIAL POWERS) ACT.

NOTICE OF INTENDED DETERMINATION OF TENANCY.

To .....

of .....

WHEREAS I have reason to believe that you did not personally occupy the above-mentioned premises for 270 or more days in the year commencing on the 1st April, 20 /will not be able to occupy the above-mentioned premises for 270 or more days in the year commencing on the 1st April, 20 .

NOW THEREFORE pursuant to the provisions of section 5 of the Housing (Special Powers) Act, and with the approval of the Housing Allocation Committee, I hereby give you notice that it is proposed to terminate your tenancy on the ground that you did not so personally occupy the premises/will not be able to so occupy the premises.

2. You may appeal against this notice by filling a complaint with clerk to the magistrates' court, within fourteen days from the date of service of the notice.

Dated this            day of            20 .

.....  
Housing Manager  
for and on behalf of the  
Government.

Served this            day of            20 .

.....  
Housing manager .

FORM B.

Sections 7, 8 and 15.

HOUSING (SPECIAL POWERS) ACT,

*Notice of Determination of Tenancy.*

To  
of .....

IN exercise of the powers conferred on me by section 7 of the Housing (Special Powers) Act, I hereby determine your tenancy of the above-mentioned premises, with effect from the date of this notice.

Dated this            day of            20   .

.....  
Housing Manager  
for and on behalf of the  
Government.

Note: The effect of the above notice is that the Housing Manager may on behalf of the Government enter upon and remove from the above-mentioned premises all movable property therein. This will be stored under the provisions of the Act, and if not claimed within six months will vest in and become the property of the Government.

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**SCHEDULE 3.**

Sections 12 and 15.

REGULATIONS RELATING TO OCCUPATION OF GOVERNMENT  
FLATS, ETC.

1. The tenant shall not—
  - (a) paint, colourwash or otherwise vary the external decorative scheme of the premises;
  - (b) for any cause allow any box, parcel, flower pot, refuse, rubbish or any obstacle whatever to be left in the passage or on any landing outside the premises;
  - (c) throw, or allow dirt, rubbish, rags or other refuse to be thrown down any water closet, or use spirits of salt (hydrochloric acid) for the cleaning of sinks, lavatory pans, baths, metal fittings, or fixtures in or on the premises;

- (d) permit nor hang out from any window or out of any balcony any unsightly object, nor allow any board, placard, sign or notice to be affixed to any external part of the premises;
- (e) erect any aerial without the previous written consent of the landlord;
- (f) keep or permit to be kept on the premises or any part thereof without the previous written consent of the landlord any animal or bird;
- (g) enclose or have any form of enclosure whatever on any balcony or verandah without the previous written consent of the landlord.

2. The tenant shall—

- (a) keep the premises fit for accommodation and safe from fire hazards;
- (b) in his turn, in such a manner as may be agreed with or determined by the landlord, keep any passage and staircase used in common with other tenants swept and clean and free from obstruction, or contribute an amount that may be determined by the landlord towards the cost of any services for such purpose which the landlord may introduce or provide.

3. The Housing Manager may, on behalf of the Government, give any consent on the part of the landlord referred to in this Schedule.