



# Ground Rents Act (Northern Ireland) 2001

## 2001 CHAPTER 5

20th March 2001

BE IT ENACTED by being passed by the Northern Ireland Assembly and assented to by Her Majesty as follows:

### *The redemption of ground rents*

#### **Power of certain rent-payers to redeem ground rent**

1.—(1) Subject to subsection (2) and section 3, a rent-payer may, by complying with the requirements of this Act, redeem the ground rent to which his land is subject.

(2) Subject to subsection (4), subsection (1) does not empower a rent-payer to redeem a ground rent at a time when—

- (a) the land is used wholly for business purposes; or
- (b) the rent-payer is prohibited by the terms of his title from using the land otherwise than wholly for business purposes.

(3) Land is not prevented from being used wholly for business purposes by reason only of the fact that part of it is occupied as a dwelling by a person who is required or permitted to reside there in consequence of his employment or of holding an office.

(4) Subsection (2) does not apply to the use of land for the purposes of a building lease or of a fee farm grant for purposes corresponding to those of a building lease.

### **Compulsory redemption in case of dwelling-house**

2.—(1) Subject to subsection (4) and to section 3, this section applies where

- (a) there is a conveyance of a dwelling-house to be held for an estate in fee simple or for a leasehold estate subject (in either case) to a ground rent; and
- (b) the dwelling-house is in a compulsory registration area (within the meaning of the Land Registration Act).

(2) Subject to subsection (5) and to section 3, this section also applies where there is a transfer of a dwelling-house to be held for an estate in fee simple or for a leasehold estate subject (in either case) to a ground rent.

(3) Where this section applies, the Registrar shall refuse to accept the conveyance or transfer (and accordingly shall not register a person as owner by virtue of that conveyance or transfer) unless he is satisfied that the ground rent has been redeemed by that person under this Act.

(4) Subsection (1) does not apply to a conveyance made on or after the day on which that subsection comes into operation in pursuance of an obligation assumed before that day.

(5) Subsection (2) does not apply to a transfer made on or after the day on which that subsection comes into operation in pursuance of an obligation assumed before that day.

(6) A recital in a conveyance or transfer as to the date on which an obligation was assumed is, for the purposes of subsection (4) or (5), conclusive evidence of that fact.

(7) Where a dwelling-house is held in undivided shares, the conveyance or transfer of such a share is, for the purposes of this section, a conveyance or transfer of the dwelling-house.

(8) In this section “conveyance” means a conveyance or other assurance of unregistered land for value in money or money's worth and includes an assignment of a lease but does not include a grant of a lease, the surrender of a lease or the grant of a mortgage; and “transfer”, in relation to registered land, has a corresponding meaning.

### **Exceptions to, or restrictions on, sections 1 and 2**

3.—(1) Section 1 does not apply where—

- (a) the ground rent is payable under a lease which has been the subject of a notice of a proposal to acquire the fee simple, or to obtain an extension, under section 2 of the Act of 1971; and
- (b) the notice is capable of being withdrawn, but has not been withdrawn, under section 7 of that Act.

(2) Sections 1 and 2 do not apply where the ground rent is payable under a lease the term of which has been extended under the Act of 1971.

(3) Sections 1 and 2 do not apply where the ground rent is payable under a lease which has a short residuary term.

(4) For the purposes of subsection (3) a lease has a short residuary term where the unexpired residue of the term of the lease is 50 years or less on—

- (a) in the case of section 1, the application date;
- (b) in the case of section 2, the date of execution of a conveyance or transfer such as is mentioned in subsection (1) or (2) of that section.

(5) Sections 1 and 2 do not apply where a ground rent is payable under a lease, and—

- (a) the lease is an equity-sharing lease; or
- (b) the lease is of agricultural land within the meaning of section 43(1) of the Agriculture Act (Northern Ireland) 1949 (c. 2) (whether or not including farm houses and farm buildings); or
- (c) the rent-owner or a superior owner is the National Trust and the Trust's estate in the land is vested in it inalienably under section 21 of the National Trust Act 1907 (c. xxxvi);

nor does section 2 apply to a conveyance or transfer from the lessor to the lessee upon the termination of an equity-sharing lease.

(6) Sections 1 and 2 do not apply where the ground rent is payable under a lease and proceedings, otherwise than by the rent-payer, in any court for recovery of possession of the land are pending.

(7) Sections 1 and 2 do not apply to a flat, that is to say, a unit of accommodation in a development containing two or more such units, where—

- (a) each such unit is dependent to a substantial degree on one or more than one other such unit for support or shelter; and
- (b) the boundary, or part of the boundary, between at least two such units is horizontal; and
- (c) the owners or occupiers of such units, or any of them share or may share in the enjoyment of common parts.

(8) In subsection (7)—

“common parts” means any parts of the development or facilities therein not included in a lease or grant of a unit which, in consideration of a periodic payment which is not merely nominal, are provided or used for the accommodation (direct or indirect) of the rent-payers or their tenants or licensees or any of them or members of their households or their visitors, and includes (where relevant, having regard to the terms of the lease or grant) boundary walls or fences, gardens, roads, paths, parking or drying areas, areas

for waste storage or disposal, play areas, rooms or areas reserved for the use of the manager of the development or his staff, sewers, drains, watercourses, water tanks, pipes, gutters, cables, wires, ducts, utility rooms, forecourt, steps, staircases, passages, lifts and the structure and exterior of buildings (but does not include any sewer, drain, watercourse, pipe, cable, wire, duct or installation which is vested in a government department or a body established under a statutory provision or for purposes of public utility);

“development” means land comprising units of accommodation together with common parts and includes a distinct part of a development;

“unit of accommodation” means a part of a building which is leased or granted to a rent-payer subject to a ground rent.

(9) Section 2 does not apply to the conveyance or transfer of a dwelling-house to—

- (a) the Northern Ireland Co-ownership Housing Association; or
- (b) any other housing association (within the meaning of the Housing (Northern Ireland) Order 1992 (NI 15)) specified by an order made by the Department for Social Development subject to negative resolution.

### **Redemption**

4.—(1) A rent-payer wishing to redeem a ground rent under this Act shall apply to the Land Registry in the prescribed form.

(2) At the same time as an application is made under subsection (1), the rent-payer shall lodge with the Land Registry—

- (a) the redemption money;
- (b) the receipt for the last payment of the ground rent or the sum of money necessary to discharge any arrears of the ground rent due and recoverable by law at the date of lodgment;
- (c) such sum of money, if any, necessary to discharge any apportionment of the ground rent for the period from the last day for payment of ground rent before the date of lodgment to the date of lodgment;
- (d) such evidence of title and other matter as may be prescribed; and
- (e) such sum as may be prescribed to defray expenses to be incurred in obtaining a certificate under section 6.

(3) Immediately after an application is made under subsection (1), the rent-payer shall serve on the rent-owner a notice in the prescribed form to the effect that the application has been made.

(4) Subsection (3) does not apply where—

- (a) the rent-payer does not know the name and address of the rent-owner or his agent; or

(b) a notice sought to be served by post is returned undelivered.

(5) Where two or more lands held under different titles subject to ground rents payable to the same rent-owner are contiguous (or, in the case of more than two, every one is contiguous to some other) and are occupied by the same rent-payer, they may, for the purposes of this Act, be treated as one land and the aggregate of the ground rents may be treated as one ground rent.

(6) Where land comprised of two or more parcels vested in separate persons is subject to a single ground rent, both or all of those persons may combine to redeem the ground rent.

#### **The redemption money and other money lodged under section 4(2)**

5.—(1) The redemption money appropriate to any ground rent is to be determined in accordance with Schedule 1.

(2) The Registrar shall keep in the prescribed form—

(a) a register of all moneys which have been lodged with the Land Registry under section 4(2); and

(b) such indexes to the register as may be prescribed.

(3) Section 81 of the Land Registration Act (searches) applies for the purposes of this Act as if—

(a) “register” included the register kept under subsection (2) and “the land” included the land in relation to which money has been lodged with the Land Registry under section 4(2) and that money;

(b) subsections (3) and (4) were omitted.

#### **Disposal of money lodged with Land Registry under section 4(2): claims thereto**

6.—(1) All money lodged with the Land Registry under section 4(2) shall be paid into the Consolidated Fund.

(2) Where the Registrar receives a claim from any person that he is entitled to payment of the money so lodged in relation to the redemption of a ground rent, the Registrar shall proceed as follows—

(a) where he is satisfied in accordance with rules that the person is so entitled, he shall certify accordingly;

(b) where he is not so satisfied, he shall refuse so to certify.

(3) Rules may define circumstances in which the Registrar may be satisfied as mentioned in subsection (2).

(4) Rules shall provide that a person is not entitled to payment of money lodged under section 4(2) in relation to the redemption of a ground rent unless—

- (a) he is the rent-owner or, in such circumstances as may be prescribed, a superior owner; and
  - (b) in a case where there is one or more superior rent, he enters into such arrangements and complies with such other conditions as may be prescribed for the purpose of ensuring that each relevant owner receives his appropriate share of that money.
- (5) For the purposes of subsection (4)(b)—
- (a) “relevant owner” means the rent-owner and a superior owner; and
  - (b) a relevant owner's appropriate share of the redemption money shall be determined in accordance with rules.
- (6) A person aggrieved by the Registrar's certificate under subsection (2), or by his refusal of a certificate, may appeal to the Lands Tribunal, and if the Lands Tribunal is satisfied that the appellant is entitled to payment of the money lodged under section 4(2) in relation to the redemption of a ground rent, it shall order accordingly.
- (7) On receipt of a certificate of the Registrar, or an order of the Lands Tribunal, that a person is entitled to payment of the money lodged under section 4(2) in relation to the redemption of a ground rent, the Department of Finance and Personnel shall pay to that person—
- (a) the amount of money so lodged; and
  - (b) interest upon that money from the date of its payment into the Consolidated Fund under subsection (1) to the time of payment to the person entitled thereto.
- (8) The rate of interest payable under subsection (7) shall be such rate as may from time to time be determined by the Department of Finance and Personnel.

### **Certificate of redemption**

7.—(1) Where a rent-payer has complied with section 4(1) and (2) the Registrar shall prepare and seal with the seal of the Land Registry a certificate that the ground rent has been redeemed and send the certificate to the rent-payer.

(2) A certificate which has been sealed under subsection (1) is, for the purposes of this Act, a certificate of redemption.

(3) A certificate of redemption shall be in the prescribed form.

(4) The sealing of a certificate of redemption operates as a full and final discharge of the land from the ground rent (but without prejudice to section 10(2), and subject to registration in accordance with section 13(4) where the land is registered land).

### **Exclusion of re-possession of land while redemption is pending**

**8.—**(1) Without prejudice to any other civil remedy of the rent-owner or a superior owner while the redemption of a ground rent is pending—

- (a) any covenant giving the rent-owner or a superior owner a right to enter or re-enter the land when ground rent or a superior rent is in arrear, or in the event of any other breach of covenant, is not enforceable;
- (b) section 52 of the Landlord and Tenant Law Amendment Act, Ireland, 1860 (c. 154) (proceedings for ejectment when year's rent in arrear) does not apply to the land.

(2) For the purposes of this section redemption of a ground rent is pending between the making of an application under section 4(1) and the sealing of a certificate of redemption.

### *The redemption of certain other periodic payments*

### **Application of certain provisions of Act to certain other periodic payments**

**9.—**(1) In this section “periodic payment” means—

- (a) a quit rent;
- (b) a tithe rentcharge;
- (c) any other rentcharge except a rentcharge such as is mentioned in Article 29(3)(b) to (e) of the Property (Northern Ireland) Order 1997 (NI 8).

(2) The following provisions of this Act (and no others) apply with appropriate modifications to a periodic payment as they apply to a ground rent, namely sections 1, 4 to 8, 10, 15(2), 18, 20 to 30 and paragraphs 1 and 2 of Schedule 1.

### *Consequences of redemption*

### **Effect of certificate of redemption**

**10.—**(1) Subject to subsection (2), a certificate of redemption is conclusive evidence—

- (a) of the redemption of the ground rent to which it relates (and of the right of the rent-payer to that redemption); and
- (b) of the operation in relation to the land, and any other parcel or parcels of land affected, of sections 11 to 17 so far as those sections are applicable and subject to their terms.

(2) Where the court is satisfied that—

- (a) a certificate of redemption has been obtained by fraud; and

- (b) the certificate can be cancelled without hardship to a purchaser of the land in good faith for value,

the court may order the certificate to be cancelled and, where the certificate relates to registered land, may order the register to be rectified accordingly.

### **Superior rents**

**11.—**(1) When a ground rent is redeemed, all superior rents (if any) to which the land is subject are also redeemed or, where they are charged on other land as well as the land, are redeemed to the extent that they are charged on the land.

(2) For the purposes of this section that extent is to be taken to be a fraction equivalent to the ratio which the redeemed ground rent bears to the aggregate of that ground rent and the ground rents charged on the other land which are payable to the rent-owner.

### **Lands in separate occupation subject to single ground rent**

**12.—**(1) This section applies where—

- (a) land comprised of two or more parcels vested in separate persons is subject to a single ground rent;
- (b) the rent-payers do not combine under section 4(6) to redeem the ground rent; and
- (c) a rent payer entitled to any parcel or parcels has complied with section 4(1) and (2) in relation to the ground rent.

(2) The sealing of the certificate of redemption discharges all the parcels from the ground rent.

(3) At the request of a person entitled to any other parcel or parcels, the Registrar on being satisfied—

- (a) of the facts; and
- (b) that that person has paid any amount for which he is liable under subsection (4)(b);

shall deliver to that person a copy of the certificate of redemption.

(4) The rent-payer may require reimbursement of all or an appropriate part (as the case may be) of any moneys lodged under section 4(2)(a), (b), (c) or (e) and of his costs in connection with an application under section 4(1)—

- (a) where he has been indemnified against payment of the ground rent or any part of it, from the indemnifier; or
- (b) in any other case, from the person entitled to any other parcel, unless he himself has indemnified that person against any demand for ground rent.

(5) Without prejudice to any right of set-off or counterclaim, any amount mentioned in subsection (4) may be recovered by the rent-payer in proceedings in any court of competent jurisdiction.

### **Effect of redemption on titles**

**13.**—(1) Subject to subsection (3), where, immediately before the date of the sealing of a certificate of redemption, the land was held by the rent-payer for an estate in fee simple, the certificate of redemption operates by virtue of this provision on that date (or on the date of reclassification of the rent-payer's title under paragraph 3(i) of Schedule 3 to the Land Registration Act, where the rent-payer's estate is registered land) to discharge that estate from all estates in the land of the rent-owner and any superior owners to the extent that those estates carry entitlement to ground rent or a superior rent or relate to matters connected with any such rent (and to that extent those estates are extinguished).

(2) Subject to subsection (3), where, immediately before the date of the sealing of a certificate of redemption, the land was held by the rent-payer for a leasehold estate, the certificate operates by virtue of this provision on that date (or on the date of registration of the rent-payer's title in the Land Registry, or, as the case requires, reclassification of his title, where the estate of the rent-payer or of the rent-owner or of any superior owner is registered land) to enlarge the rent-payer's estate into an estate in fee simple and, accordingly—

- (a) the title of the rent-owner or any superior owner to the fee simple; and
- (b) all other estates in the land of the rent-owner or any superior owners to the extent that those estates carry entitlement to ground rent or a superior rent, or relate to matters connected with any such rent,

are extinguished.

(3) Subsections (1) and (2) do not prejudice section 6, and subsection (2) does not prejudice section 14, nor do subsections (1) and (2) affect the power of the rent-owner or a superior owner to enforce a covenant enforceable by him which is continued by section 16(2) or any liability of his to have a covenant to which that subsection applies enforced against him.

(4) In the case of registered land, a certificate of redemption is sufficient authority for the Registrar (subject to compliance with rules)—

- (a) where the rent-payer's estate in the land is a registered freehold estate, to discharge any burden such as is mentioned in paragraph 2 of Part I of Schedule 6 to the Land Registration Act and make such alteration in the class of title with which the land is registered as appears to him appropriate;
- (b) where the rent-payer's estate in the land is a registered leasehold estate and an application is made under subsection (1) of section 27 of the Land Registration Act, to cancel the entry relating to the title to that estate and register the estate in fee simple vested in the rent-payer by

virtue of subsection (2) in accordance with that section with such class of title as appears to him appropriate (the references in that section to the leasehold estate's being converted or not having been converted being read as including references to that estate's being or not having been the subject of a certificate of redemption);

- (c) where the rent-payer's estate in the land is an unregistered leasehold estate registered as a burden on a superior registered freehold or leasehold estate, to cancel the entry or entries relating to the title to the superior estate or estates so far as that title relates to the land and falls to be extinguished by virtue of subsection (2) and register the estate in fee simple vested in the rent-payer by virtue of that subsection with such class of title as appears to him appropriate,

and (notwithstanding any caution or inhibition) to make in the register such consequential entries, changes, cancellations or notes as appear to him appropriate.

(5) The cancellation referred to in subsection (4)(c) and the consequential entries, changes, cancellations and notes referred to in the final words of subsection (4) may be made at any time after the Registrar becomes aware of the necessity or desirability to make them and without any application to him.

(6) A certificate of redemption is a conveyance for the purposes of the Registration of Deeds Acts and, for those purposes the rent-payer is the grantor.

(7) The enlargement of a leasehold estate effected by virtue of subsection (2)

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- (a) operates as a grant by the rent-owner and any superior owner to the rent-payer of all easements, rights and privileges in or over land of, respectively, the rent-owner and the superior owner (and, so far as it is within the power of the rent-owner or superior owner to grant, in or over any other land) which existed and were enjoyed, or were prospectively capable of being enjoyed, by the rent-payer immediately before the time when the enlargement took effect;
- (b) operates to make the land of the rent-payer continue to be subject to all easements, rights and privileges enjoyed by the rent-owner or any superior owner in or over that land which existed immediately before the time mentioned in paragraph (a), so far as those easements, rights or privileges are not extinguished by virtue of subsection (2)(b);
- (c) does not affect any easement, right or privilege in or over land of a third person which had been granted by that person, or a predecessor in title of his, to the rent-payer in right of the rent-payer's land and which existed and was enjoyed, or was prospectively capable of being enjoyed, by the rent-payer immediately before the time mentioned in paragraph (a), but without affecting the duration of any such easement, right or privilege where it is

of limited duration (that duration being measured as if the leasehold estate had not been enlarged).

(8) Save as provided in subsection (9), this section does not affect the rights of a third person, and, in particular,—

- (a) so far as any such rights consist of an easement, right or privilege in or over land, they are exercisable to the same extent as they would have been if the ground rent had not been redeemed (but no further); and
- (b) so far as such rights consist of a right to payment of a sum of money charged on or issuing out of the land, that sum continues to be charged or to issue as theretofore.

(9) So far as the rights of a third person consist of a right to payment of a sum of money charged on or issuing out of a ground rent or superior rent that is redeemed, that sum becomes charged on or payable out of the redemption money (or the share of the redemption money to which the person liable to pay that sum is entitled), and is recoverable as a debt.

(10) For the purposes of subsections (7) to (9) a third person is a person other than—

- (a) the rent-payer; or
- (b) the rent-owner or a superior owner.

(11) For the purposes of subsections (1) and (2), matters are connected with rent if they are concerned with the amount of the rent or its payment or recovery or are otherwise concerned (directly or indirectly) with the rent.

### **Continuance of rights and equities affecting leasehold estate**

**14.—**(1) The fee simple estate into which a leasehold estate is enlarged by virtue of section 13(2) is for all purposes (except as provided in section 16(1)) a graft on the leasehold estate and is subject to any rights or equities arising from its being such a graft.

(2) Without prejudice to the generality of subsection (1), that subsection applies to rights and equities which had been created or had come into existence in relation to a superior estate, and which bound the leasehold estate, notwithstanding the extinguishment of the superior estate.

(3) Any provision of a will in respect of such a leasehold estate operates instead on the fee simple.

### **Mortgages and leases**

**15.—**(1) Where by virtue of section 13(2) a certificate of redemption operates to enlarge a leasehold estate into a fee simple,—

- (a) any mortgage of the leasehold estate continues to have effect as if it were, and had originally been created as, a mortgage of the fee simple, and, in particular—
  - (i) where the instrument creating the mortgage was an assignment of the leasehold estate, it has effect as if it were a conveyance of the fee simple;
  - (ii) where the instrument creating the mortgage was a sub-lease, it has effect as if it were a lease for a term equivalent to the term of the sub-lease and any provision in the instrument providing for an estate acquired by the mortgagor to be held in trust for the mortgagee or appointing the mortgagee as the mortgagor's attorney in relation to such estate applies to the fee simple;
- (b) any sub-lease of the land granted by the rent-payer or a predecessor in title of his has effect as if it were a lease for a term equivalent to the term of the sub-lease, and any mortgage of the estate created by such a sub-lease has effect as if it were a mortgage of the estate created by such a lease.

(2) Where the land is subject to a mortgage by the terms of which the mortgagee is entitled to possession of the documents relating to the mortgagor's title to the land, there is deemed to be included in the instrument or agreement containing the terms of the mortgage a covenant binding the mortgagor to deliver the certificate of redemption to the mortgagee as soon as reasonably practicable after the redemption date.

(3) This section does not prejudice the generality of section 14.

### **Covenants**

**16.—**(1) Except as provided by this section, in the following event, that is to say—

- (a) upon the sealing of a certificate of redemption, where the land is unregistered land; or
- (b) upon the making of any relevant alteration, cancellation or entry in the register (in accordance with section 13(4)), where the land is registered land,

all covenants concerning the land by virtue of the rent-payer's fee farm grant or lease, or any superior fee farm grant or lease, or any collateral instrument, cease to have effect.

(2) Covenants of the following kinds continue to benefit or, as the case may be, burden the land, that is to say—

- (a) covenants for title, including—
  - (i) a covenant that a former vendor had a good right to convey, transfer or lease, the whole property and interest he had agreed to sell;

- (ii) covenants for quiet enjoyment, freedom from incumbrances and further assurance;
  - (iii) covenants by a former assignor of a lease that the lease was valid and in full force and that the rent had been paid and the covenants in the lease duly performed;
- (b) covenants for indemnities (except indemnities relating to a ground rent or superior rent which has been redeemed);
- (c) covenants categorizing boundary walls or fences as party walls or fences or in respect of the maintenance, repair or renewal of walls or fences or the preservation of boundaries;
- (d) covenants to do, or to pay for or contribute to the cost of, works on, or to permit works to be done on, or for access to be had to, or for any activity to be pursued on, the land for the benefit of other land;
- (e) covenants to do, or to pay for, or contribute to the cost of, works done on other land where the works benefit the land;
- (f) covenants to reinstate in the event of damage or destruction;
- (g) covenants for the protection of amenities or services or for compliance with a statutory provision (or a requirement under it), including—
  - (i) covenants (however expressed) not to use the land for specified purposes or otherwise than for the purposes of a private dwelling;
  - (ii) covenants against causing nuisance, annoyance, damage or inconvenience to neighbours;
  - (iii) covenants against interfering with facilities which benefit neighbours;
  - (iv) covenants prohibiting, regulating or restricting building works or the erection of any structure, or the planting, cutting or removal of vegetation (including grass, trees and shrubs) or requiring the tending of such vegetation;
- (h) covenants in relation to a body corporate formed for the management of land;
- (i) any covenants which were reciprocally enforceable between the rent-payer and other participants in a relevant building scheme immediately before the redemption of the ground rent by virtue of that scheme;
- (j) any covenant, not falling within any of the preceding paragraphs, which is contained in a lease granted by the Northern Ireland Housing Executive before 10th January 2000 and relates—
  - (i) to a district heating supply provided by the Executive; or

(ii) to the repayment to the Executive of any discount of part of the purchase price under a house sales scheme made under the Housing (Northern Ireland) Order 1983 (NI 15).

(3) After the event mentioned in paragraph (a) or (b) (whichever is applicable) of subsection (1) (whether that event occurs in relation to both parties or only one party), a covenant categorizing a boundary wall or fence as a party wall or fence has effect as a covenant by each party to contribute one-half of the cost of maintaining, repairing or renewing the wall or fence.

(4) Subsection (2) does not apply to any covenant which is expressed to bind only the covenantor.

(5) Where a covenant to which subsection (2) applies is framed in terms of a condition or limitation, it has effect following the redemption of the ground rent as though it were framed as a covenant (in the strict sense).

(6) Article 45 of the Property (Northern Ireland) Order 1997 (NI 8) (enforcement of covenants) applies in relation to a covenant to which paragraph (2) applies as it applies in relation to a covenant to which Article 34 of that Order applies.

(7) In subsection (2)(i)—

“building scheme” means a scheme (express or implied) under which land (whether freehold or leasehold) is divided into two or more parcels subject to obligations which are reciprocally enforceable (whether at law or in equity) between owners of the parcels; and

“relevant building scheme”, in relation to any land, means a building scheme which includes the land or which is taken to subsist in respect of the land by virtue of section 17(6).

### **Enforceability of covenants**

**17.—**(1) A covenant to which section 16(2)(a) applies is enforceable by the covenantee and his successors in title but only against the person against whom the covenant was enforceable immediately before the event mentioned in paragraph (a) or (b) of section 16(1).

(2) A covenant to which section 16(2)(b) applies is enforceable by the covenantee and his successors in title against the covenantor and his successors in title.

(3) A covenant to which section 16(2)(c) applies (with or without section 16(3)) is enforceable by each party and his successors in title against the other party and his successors in title.

(4) Subject to subsection (6), a covenant to which section 16(2)(d), (e), (g), (h) or (j) applies is enforceable by or against the same person as it would have been enforceable by or against had the ground rent not been redeemed (and for

this purpose a person taking conveyance of the estate in fee simple which is vested in a rent-payer following redemption of the ground rent payable under a lease is in the same position as an assignee of the lease would have been in had there been no redemption).

(5) A covenant to which section 16(2)(f) applies is enforceable against the person who is or was the rent-payer in relation to the property which has been damaged or destroyed, and his successors in title, by any other person who is or was a rent-payer in relation to the same rent-owner in respect of land the value or amenities of which have been affected by the damage or destruction, or by the successors in title of such another person.

(6) For the purposes of the enforcement of the covenants for the protection of amenities to which section 16(2)(g) applies, after the first operation of section 16 in respect of a parcel of any land there is to be taken to subsist (if it does not subsist apart from this provision) a building scheme in respect of the land in which all the persons holding parcels under dispositions in substantially similar terms from the same rent-owner, and the successors in title of those persons, are participants, and accordingly—

- (a) not only do those covenants continue to be enforceable by and against the rent-owner and his successors in title so long as he or they continue as such in relation to any participant, but
- (b) the covenants are also enforceable by and against each of the various participants among themselves, whether or not their ground rents have been redeemed;

and a covenant to which section 16(2)(g)(iv) applies is also, so far as it relates to the tending of vegetation, enforceable by any such participant against the covenantor and his successors in title.

(7) A covenant to which subsection (4) or (6) applies which is restrictive in substance or relates to permission is also enforceable by any person by whom it is enforceable under that subsection against any person occupying or using the land.

(8) For the purposes of subsection (6)—

- (a) a rent-owner and his predecessors and successors in title are to be taken to be the same rent-owner;
- (b) a mortgagee in possession of land in which a building scheme subsists or is taken to subsist, or a person acting as a receiver appointed by a mortgagee, is to be taken to be a participant in the building scheme.

(9) A covenant to which section 16(2)(i) applies continues to be enforceable by each participant in the building scheme against every other participant and by and against their respective successors in title.

(10) In this section “building scheme” has the meaning given in section 16(7).

*General provisions***Settled land**

**18.—(1)** In the application of this Act to settled land which is subject to or includes or comprises a ground rent—

- (a) subject to the following paragraphs, the limited owner is to be treated as the rent-payer or, as the case requires, the rent-owner;
- (b) where the limited owner is treated as the rent-payer—
  - (i) references (however expressed) to an estate of the rent-payer in the land or to his title are to be read as including references to the estate in the settled land which is the subject of the settlement or the title to that estate;
  - (ii) where a certificate of redemption is sealed, all estates in the land arising under the settlement (whether legal or equitable) are converted, in accordance with their nature, to take into account the consequences of that certificate;
- (c) where the limited owner is treated as the rent-owner, the trustees of the settlement are the persons entitled to (or to a share of) the redemption money;
- (d) where the settled land is registered land the powers of the Registrar for the purposes of this Act extend to making such entries, changes, cancellations or notes in the register, in relation to the settled land, as the case requires.

(2) Capital money of a settlement, and any personal estate held on the same trusts as the settled land, may be applied in payment of redemption money or of any costs incurred for the purposes of this Act (and, accordingly, the limited owner may look to the trustees of the settlement for reimbursement of redemption money paid by him, other than money raised by him on the security of the settled land or part of it).

(3) Redemption money receivable is capital money for the purposes of a settlement.

(4) The payment of redemption money is included among the purposes for which a limited owner or the trustees of a settlement may raise money.

(5) In this section—

“limited owner” means a tenant for life of settled land or a person who has the powers of a tenant for life under the Settled Land Acts 1882 to 1890;

“settled land” means land which is or is deemed to be the subject of a settlement;

and “settlement” and “capital money” have the same meaning as in those Acts.

### **Cesser of Act of 1971 as to enlargement of leases to which this Act applies**

**19.** No notice of a proposal to acquire the fee simple shall be served under section 2 of the Act of 1971 in respect of any land subject to a ground rent which may be redeemed under section 1.

### **Avoidance of certain agreements**

**20.** Except so far as expressly provided by this Act, so much of any agreement as provides that any provision of this Act shall not apply in relation to a person or any land or that the application of any such provision shall be modified in relation to a person or any land is void.

### **Mental patients**

**21.—(1)** Where a rent-payer, a rent-owner or a superior owner is incapable, by reason of mental disorder within the meaning of the Mental Health (Northern Ireland) Order 1986 (NI 4), of managing and administering his property and affairs, his controller or (if no controller is acting for him) any person authorised in that behalf under an order of the High Court may represent him for all or any of the purposes of this Act.

(2) Subsection (1) does not prejudice the powers of a person appointed attorney under an enduring power of attorney which has taken effect.

### **Service of documents**

**22.—(1)** Any document permitted or required by this Act to be served on a rent-owner is duly served on him if it is served—

- (a) on any person who acts as agent for the rent-owner in respect of the land in question; or
- (b) on the person who last demanded or received ground rent for the land.

(2) Any document permitted or required by this Act to be served on a rent-owner or a rent-payer may, where joint tenants or tenants in common are the rent-owners or rent-payers of any ground rent, be served on any one of them in respect of that rent, and such service shall be taken to be service on both or all of them.

(3) Where the estate of a rent-owner is subject to a mortgage and either the mortgagee is in possession or a receiver is in receipt of the rents and profits, any document required or permitted by this Act to be served on the rent-owner may, instead, be served on the mortgagee or the receiver, as the case may be.

### **Disputes**

**23.—(1)** Any question arising as to the matters mentioned in subsection (4) may be referred to the Registrar in accordance with rules.

(2) On a reference under subsection (1), the Registrar may, after or without holding a hearing (as he sees fit),—

- (a) determine the question; or
- (b) refer the question to the Lands Tribunal for determination by it.

(3) A person aggrieved by a determination of a question by the Registrar under subsection (2)(a) may appeal to the Lands Tribunal, and on such an appeal, or on a reference under subsection (2)(b), the Tribunal may determine the question.

(4) The matters referred to in subsection (1) are—

- (a) the applicability of section 1 or section 2 in a particular case;
- (b) the amount of the redemption money;
- (c) the amount of arrears of ground rent or apportioned ground rent referred to in section 4(2)(b) and (c);
- (d) what abatement is appropriate for the purpose of paragraph 3(3) of Schedule 1;
- (e) the yearly amount of a ground rent which is subject to a future increase or a periodic review and falls to be determined under paragraph 4 or 5 of Schedule 1;
- (f) any other difference arising under this Act (but not a difference as to a matter which may be subject to proceedings in a court other than the Lands Tribunal).

(5) Section 2 of the Land Registration Act (power of Registrar to summon witnesses) applies for the purposes of this Act as if the reference in subsection (1) of that section to any matter relating to registration under that Act included any question arising as mentioned in subsection (1).

(6) Section 85(3)(m) of the Land Registration Act (rules about award of costs by Registrar) applies also to the costs incurred on, or subsequent to, a reference to the Registrar under this section.

(7) An appeal from an award of costs by the Registrar under this section, or from his refusal to award costs, lies to the Lands Tribunal.

(8) An award of costs by the Registrar is a money judgment for the purposes of Article 4 of the Judgments Enforcement (Northern Ireland) Order 1981 (NI 6).

## **Offences**

**24.—**(1) A person who, in any document made, served or lodged under this Act—

- (a) makes a statement which he knows to be false; or
- (b) recklessly makes a statement which is false,

is guilty of an offence and is liable on summary conviction to a fine not exceeding level 4 on the standard scale.

(2) For the purposes of subsection (1) a statement is made recklessly if it is made regardless of whether it is true or false, whether or not the person making it had reasons for believing that it might be false.

(3) In this section “false” means false to a material degree.

### **Civil remedy for misstatement**

**25.**—(1) Subject to subsection (2), where in consequence of any misstatement made in any document made, served or lodged under this Act a person has suffered loss, the person who made the misstatement is liable to damages in respect of the misstatement notwithstanding that the misstatement was not made fraudulently.

(2) A person is not liable under subsection (1) if he proves that he had reasonable grounds to believe and did believe that the facts represented were true.

### **Fees and rules**

**26.**—(1) An order under subsection (1) of section 84 of the Land Registration Act may prescribe the fees to be taken in the Land Registry for the purposes of this Act as well as for the purposes of that Act, and accordingly references in that section to that Act includes references to this Act and the reference to expenses of the Land Registry attributable to its registration functions includes a reference to expenses attributable to any function conferred by this Act on the Registrar.

(2) Land Registry Rules under subsection (3) of section 85 of the Land Registration Act may be made for giving effect to this Act as well as for giving effect to that Act, and accordingly in the introductory words of that subsection, and in paragraphs (a), (k) and (n) of that subsection, references to that Act include references to this Act, and in paragraphs (c), (f) and (j) references to the register include the register kept under section 5(2).

(3) For the purposes of this Act, the reference in section 85(3)(k) of the Land Registration Act to documents to be given includes documents to be served or lodged.

(4) Rules may make such provisions (including modifications of this Act) as are necessary or expedient to give effect to the purposes of this Act in cases falling within section 18.

(5) Rules may require the authentication in a prescribed manner of a copy of a document, where the copy is permitted or required by or under this Act to be lodged or delivered or is deemed by rules to be that document.

## *Interpretation*

### **General interpretation**

#### **27.—(1) In this Act—**

“the Act of 1971” means the Leasehold (Enlargement and Extension) Act (Northern Ireland) 1971 (c. 7);

“application date”, in relation to a ground rent, means the date on which the rent-payer complies with section 4(1) and (2);

“building lease” means a lease of land made for the purposes of having buildings erected thereon (and a lease is deemed to be made for those purposes if, at the time when it is made, planning permission has been applied for, or is in force, for those purposes);

“business purposes” means purposes other than the purposes of a private dwelling; and, for the purposes of this Act, land is used for business purposes if it is not a dwelling-house;

“certificate of redemption” has the meaning given in section 7(2);

“costs”, in any connection, means reasonable costs properly incurred in that connection;

“covenant” (except where that expression last occurs in section 16(5)) includes a promise in writing which is not a deed, an agreement to make a covenant, a proviso, a declaration and a condition and, so far as it makes a provision that could have been framed as a covenant, a limitation;

“dwelling-house” has the meaning given in section 29;

“equity-sharing lease” means a lease of land the general effect of which is to provide—

- (a) that, in consideration for the granting of the lease, the lessee shall pay a capital sum, representing a part payment in respect of the cost of acquisition of the premises demised, and a rent; and
- (b) that the lessee may make additional part payments towards the cost of acquisition of the premises demised and may exercise an option to purchase the whole or part of the lessor's reversion in those premises;

“fee farm grant” means a grant of a fee simple reserving or charging a perpetual rent (whether or not the relation of landlord and tenant subsists between the person entitled to receive the rent and the person liable to pay it) and includes a sub-fee farm grant;

“fee farm rent” means the rent payable under a fee farm grant;

“fee simple” means a legal fee simple absolute in possession;

“ground rent” has the meaning given in section 28;

“land”, in relation to a rent-payer, means land held by him subject to a ground rent; and, in relation to a ground rent or a superior rent, “the land” means the land subject to the ground rent or superior rent or, in relation to a redeemed ground rent or superior rent, means the land formerly subject to it;

“the Land Registration Act” means the Land Registration Act (Northern Ireland) 1970 (c. 18);

“lease” includes a sub-lease;

“leasehold estate” means a legal estate for a term of years absolute;

“lessor” and “lessee” include the successors in title to, respectively, the original lessor and the original lessee;

“mortgage” includes a charge, and “mortgagor” and “mortgagee” include respectively a person who is entitled to land which is subject to a charge and the person in whose favour a charge is created, and the successors in title to, respectively, the original mortgagor and the original mortgagee;

“the National Trust” means the National Trust for Places of Historic Interest or Natural Beauty;

“modify” includes making additions, omissions, amendments, extensions, restrictions and substitutions; and “modifications” is to be construed accordingly;

“obligation” includes an obligation under any agreement, whether enforceable at law or not;

“prescribed” means prescribed by rules;

“redemption”, in relation to a ground rent, means the discharge of land from the ground rent as mentioned in section 7(4); and “redeem” is to be construed accordingly; and those expressions, in relation to a superior rent, have corresponding meanings;

“redemption money”, in relation to a ground rent, is the redemption money appropriate to that ground rent determined as mentioned in section 5(1);

“registered”, in relation to an estate, means registered under the Land Registration Act;

“rentcharge” means any annual or periodic sum charged on or issuing out of land, except—

- (a) a fee farm rent;
- (b) rent reserved by a lease (including an oral lease or an implied lease);
- (c) interest;

“rent-owner” means, without prejudice to section 18, the person to whom a ground rent is, or before redemption of the ground rent was, payable by virtue of his being entitled to the next superior estate to the rent-payer's in the land,

or, where the ground rent is or was a fee farm rent, the person who is or was entitled to receive it from the rent-payer;

“rent-payer” means, without prejudice to section 18, a person entitled to an estate in land by virtue of which he is liable, or would have become liable but for section 2, to pay a ground rent, and “the rent-payer”, in relation to any ground rent or any land, means the person who is, or before redemption of the ground rent was, or would but for section 2 have become, liable to pay that ground rent or a ground rent to which that land is or was subject;

“rules” means Land Registry Rules made in pursuance of section 26(2) to (5);

“statutory provision” has the meaning given by section 1(f) of the Interpretation Act (Northern Ireland) 1954 (c. 33);

“successor in title” includes a personal representative, that is to say, the executor (including an executor by representation) or administrator of the estate of a deceased person, and also includes such a successor at any remove;

“superior owner” means a rent-owner who is, or before redemption of a ground rent was, entitled to a superior rent;

“superior rent”, in relation to a ground rent which is to be or has been redeemed, means a ground rent which is, or before redemption of the first-mentioned ground rent was, payable to a person entitled to an estate in land superior to that of the rent-owner of the first-mentioned ground rent, or, where the second-mentioned ground rent is or was a fee farm rent, was created before the first-mentioned ground rent.

(2) Without prejudice to section 17, references in this Act to a rent-owner, a rent-payer or a superior owner include references to their respective successors in title.

(3) For the purposes of this Act a lease which is, by virtue of Article 37 of, and Schedule 3 to, the Property (Northern Ireland) Order 1997 (NI 8) to be construed as a lease for a term of any period is deemed to have been originally granted for a term of that period and the fact (if it is the case) that the lease is determinable after any event is to be ignored.

(4) Expressions used in this Act which are defined in the Land Registration Act, but not in this Act, have the same meaning in this Act as in that Act.

### **Interpretation: “ground rent”**

**28.—**(1) In this Act “ground rent” means—

(a) a fee farm rent; or

(b) the rent payable under a lease granted for a term of more than 50 years, other than a nominal rent.

(2) In subsection (1) “nominal rent” means—

- (a) a rent of a yearly amount of less than £1; or
- (b) a peppercorn or other rent having no money value.

(3) For the purposes of this Act where a ground rent is payable if demanded (however expressed), it shall be treated as payable even though there is no demand.

(4) Where the amount of a ground rent is subject to alteration in consequence of a breach of covenant (whether it is to be increased from a lower amount to a higher amount in the event of a breach or is subject to reduction from a higher amount to a lower amount so long as there is no breach), for the purposes of this Act the amount of the ground rent is the lower amount.

#### **Interpretation: “dwelling-house”**

**29.—(1)** In this Act “dwelling-house” means land used wholly for the purposes of a private dwelling (and, for the purposes of this Act, land is so used if it comprises or includes a building constructed or adapted for those purposes and (subject to subsection (2)) is not used for any other purpose).

(2) For the purposes of this Act land is not to be treated as used otherwise than wholly for the purposes of a private dwelling by reason only of one or more than one of the following circumstances—

- (a) that one or more than one room on the land suitable for being used for letting singly for residential purposes is so let, whether by way of a tenancy or of a licence and whether with or without board or other services or facilities (so long as all, or substantially all, such rooms are not so let);
- (b) that the land includes a garage, outhouse, garden, yard, court, forecourt or other appurtenance which is not used, or not used wholly, for the purposes of a private dwelling;
- (c) that part of the land, not being a garage, outhouse, garden, yard, court, forecourt or other appurtenance, is used partly for the purposes of a private dwelling and partly for other purposes, unless that part was constructed, or has been adapted, for those other purposes;
- (d) that a person who resides on the land, or part of it, is required or permitted to reside there in consequence of his employment or of holding an office.

#### *Supplementary provisions*

#### **Application to the Crown**

**30.** This Act binds the Crown to the full extent authorised or permitted by the constitutional laws of Northern Ireland.

*S. 31—Amendments and repeals*

**Commencement**

**32.—**(1) The preceding provisions of this Act shall come into operation on such day or days as the Department of Finance and Personnel may by order appoint<sup>F1</sup>.

(2) An order under this section may contain transitional provisions and savings.

**Annotations:**

**F1** partly exercised by SR 2002/251

**Short title**

**33.** This Act may be cited as the Ground Rents Act (Northern Ireland) 2001.

## Schedules

### SCHEDULE 1

Section 5.

#### THE REDEMPTION MONEY

##### *The redemption money -general provisions*

**1**<sup>F2</sup>. The redemption money appropriate to a ground rent is the sum produced by multiplying the yearly amount of the ground rent by the figure fixed under paragraph 2 as the number of years purchase applicable to that ground rent.

**Annotations:**

**F2** mod. by SR 2002/228

**2.** The Department of Finance and Personnel may by order made subject to negative resolution fix a figure as being the number of years purchase applicable to ground rents or to ground rents of a particular class or description.

##### *Ground rent under building lease, etc.*

**3.—(1)** This paragraph applies for the purpose of determining, for the purposes of paragraph 1, the yearly amount of a ground rent—

- (a) to which land held under a building lease or under a fee farm grant for purposes corresponding to those of a building lease is subject; and
- (b) in relation to which there is an agreement providing for one or more than one increase (whether periodic or dependent on a contingency) in the amount of the ground rent related to periods or events in the progress of building or related activities.

(2) Subject to sub-paragraph (3), the yearly amount of the ground rent is to be taken to be the greatest annual amount that can become payable in accordance with the agreement (assuming, where an increase is dependent on a contingency, that the contingency will happen).

(3) The amount arrived at under sub-paragraph (2) is subject to such abatement as is appropriate to take account of the period or periods during which ground rent would be payable, or likely to be payable, at a reduced rate in accordance with the agreement if the ground rent were not redeemed.

(4) In this paragraph “contingency” does not include a breach of covenant such as is mentioned in section 28(4).

*Ground rent subject to future increase*

**4<sup>F3</sup>**.—(1) This paragraph applies for the purpose of determining, for the purposes of paragraph 1, the yearly amount of a ground rent which is subject to a provision for its increase, on a date or dates falling after the application date, by—

- (a) a fixed amount; or
- (b) an amount which is ascertained by a formula.

(2) Where the date for any such increase falls after the expiration of the relevant period, the provision for that increase is to be ignored.

(3) Where the date for any such increase falls within the relevant period, the yearly amount of the ground rent shall be determined in such manner as may be specified in an order under paragraph 2.

(4) In this paragraph “the relevant period”, in relation to a ground rent, means the period commencing on the application date and consisting of the number of years fixed by order under paragraph 2 as the number of years purchase applicable to ground rents (or, as the case may be, applicable to ground rents of the same class or description as that ground rent).

**Annotations:**

**F3** mod. by SR 2002/228

*Ground rent subject to periodic review*

**5.**—(1) This paragraph applies for the purpose of determining, for the purposes of paragraph 1, the yearly amount of a ground rent which is subject to periodic review having regard to circumstances current at the time of the review.

- (2) If the application date is within one year after the date of—
- (a) the creation of the ground rent; or
  - (b) a review of the ground rent,

the yearly amount of the ground rent is to be taken to be its amount as created or, as the case may be, its amount immediately following the implementation of the review.

(3) If the application date is more than one year after the date of the creation of the ground rent or its review (or most recent review), the yearly amount of the ground rent is to be taken to be that which it would have been if the ground rent had been reviewed on the anniversary of the date of its creation last preceding the application date in accordance with all the provisions for review except any provision about the dates of, or the length of periods between, reviews.

(4) For the purposes of this paragraph, a single review the occasion for which has not yet arisen or arrived is a periodic review.

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**Changes to legislation:** *There are currently no known outstanding effects for the Ground Rents Act (Northern Ireland) 2001. (See end of Document for details)*

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*Schedule 2 — Amendments*

*Schedule 3 — Repeals*

**Changes to legislation:**

There are currently no known outstanding effects for the Ground Rents Act (Northern Ireland) 2001.