
*Changes to legislation: There are currently no known outstanding effects
for the Law of Property Act 1969. (See end of Document for details)*

SCHEDULES

SCHEDULE 1

Section 15.

CERTAIN PROVISIONS OF PART 2 OF ACT OF 1954 SET OUT AS AMENDED

Continuation of tenancies to which Part II applies and grant of new tenancies.

- 24 (1) A tenancy to which this Part of this Act applies shall not come to an end unless terminated in accordance with the provisions of this Part of this Act; and, subject to the provisions of section 29 of this Act, the tenant under such a tenancy may apply to the court for a new tenancy—
- (a) if the landlord has given notice under section 25 of this Act to terminate the tenancy, or
 - (b) if the tenant has made a request for a new tenancy in accordance with section 26 of this Act.
- (2) The last foregoing subsection shall not prevent the coming to an end of a tenancy by notice to quit given by the tenant, by surrender or forfeiture, or by the forfeiture of a superior tenancy, unless—
- (a) in the case of a notice to quit, the notice was given before the tenant had been in occupation in right of the tenancy for one month; or
 - (b) in the case of an instrument of surrender, the instrument was executed before, or was executed in pursuance of an agreement made before, the tenant had been in occupation in right of the tenancy for one month.
- (3) Notwithstanding anything in subsection (1) of this section,—
- (a) where a tenancy to which this Part of this Act applies ceases to be such a tenancy, it shall not come to an end by reason only of the cesser, but if it was granted for a term of years certain and has been continued by subsection (1) of this section then (without prejudice to the termination thereof in accordance with any terms of the tenancy) it may be terminated by not less than three nor more than six months' notice in writing given by the landlord to the tenant;
 - (b) where, at a time when a tenancy is not one to which this Part of this Act applies, the landlord gives notice to quit, the operation of the notice shall not be affected by reason that the tenancy becomes one to which this Part of this Act applies after the giving of the notice.

Termination by tenant of tenancy for fixed term.

- 27 (1) Where the tenant under a tenancy to which this Part of this Act applies, being a tenancy granted for a term of years certain, gives to the immediate landlord, not later than three months before the date on which apart from this Act the tenancy would come to an end by effluxion of time, a notice in writing that the tenant does not desire the tenancy to be continued, section 24 of this Act shall not have effect in relation

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to the tenancy, unless the notice is given before the tenant has been in occupation in right of the tenancy for one month.

- (2) A tenancy granted for a term of years certain which is continuing by virtue of section 24 of this Act may be brought to an end on any quarter day by not less than three months' notice in writing given by the tenant to the immediate landlord, whether the notice is given after the date on which apart from this Act the tenancy would have come to an end or before that date, but not before the tenant has been in occupation in right of the tenancy for one month.

Opposition by landlord to application for new tenancy.

- 30 (1) The grounds on which a landlord may oppose an application under subsection (1) of section 24 of this Act are such of the following grounds as may be stated in the landlord's notice under section 25 of this Act or, as the case may be, under subsection (6) of section 26 thereof, that is to say:—
- (a) where under the current tenancy the tenant has any obligations as respects the repair and maintenance of the holding, that the tenant ought not to be granted a new tenancy in view of the state of repair of the holding, being a state resulting from the tenant's failure to comply with the said obligations;
 - (b) that the tenant ought not to be granted a new tenancy in view of his persistent delay in paying rent which has become due;
 - (c) that the tenant ought not to be granted a new tenancy in view of other substantial breaches by him of his obligations under the current tenancy, or for any other reason connected with the tenant's use or management of the holding;
 - (d) that the landlord has offered and is willing to provide or secure the provision of alternative accommodation for the tenant, that the terms on which the alternative accommodation is available are reasonable having regard to the terms of the current tenancy and to all other relevant circumstances, and that the accommodation and the time at which it will be available are suitable for the tenant's requirements (including the requirement to preserve goodwill) having regard to the nature and class of his business and to the situation and extent of, and facilities afforded by, the holding;
 - (e) where the current tenancy was created by the sub-letting of part only of the property comprised in a superior tenancy and the landlord is the owner of an interest in reversion expectant on the termination of that superior tenancy, that the aggregate of the rents reasonably obtainable on separate lettings of the holding and the remainder of that property would be substantially less than the rent reasonably obtainable on a letting of that property as a whole, that on the termination of the current tenancy the landlord requires possession of the holding for the purpose of letting or otherwise disposing of the said property as a whole, and that in view thereof the tenant ought not to be granted a new tenancy;
 - (f) that on the termination of the current tenancy the landlord intends to demolish or reconstruct the premises comprised in the holding or a substantial part of those premises or to carry out substantial work of construction on the holding or part thereof and that he could not reasonably do so without obtaining possession of the holding;
 - (g) subject as hereinafter provided, that on the termination of the current tenancy the landlord intends to occupy the holding for the purposes, or partly for the purposes, of a business to be carried on by him therein, or as his residence.

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- (2) The landlord shall not be entitled to oppose an application on the ground specified in paragraph (g) of the last foregoing subsection if the interest of the landlord, or an interest which has merged in that interest and but for the merger would be the interest of the landlord, was purchased or created after the beginning of the period of five years which ends with the termination of the current tenancy, and at all times since the purchase or creation thereof the holding has been comprised in a tenancy or successive tenancies of the description specified in subsection (1) of section 23 of this Act.
- (3) Where the landlord has a controlling interest in a company any business to be carried on by the company shall be treated for the purposes of subsection (1)(g) of this section as a business to be carried on by him.

For the purposes of this subsection, a person has a controlling interest in a company if and only if either—

- (a) he is a member of it and able, without the consent of any other person, to appoint or remove the holders of at least a majority of the directorships; or
- (b) he holds more than one-half of its equity share capital, there being disregarded any shares held by him in a fiduciary capacity or as nominee for another person;

and in this subsection “company” and “share” have the meanings assigned to them by section 455(1) of the ^{M1}Companies Act 1948 and “equity share capital” the meaning assigned to it by section 154(5) of that Act.

Marginal Citations

M1 1948 c. 38.

Property to be comprised in new tenancy.

- 32 (1) Subject to the following provisions of this section, an order under section 29 of this Act for the grant of a new tenancy shall be an order for the grant of a new tenancy of the holding; and in the absence of agreement between the landlord and the tenant as to the property which constitutes the holding the court shall in the order designate that property by reference to the circumstances existing at the date of the order.
- (1A) Where the court, by virtue of paragraph (b) of section 31A(1) of this Act, makes an order under section 29 of this Act for the grant of a new tenancy in a case where the tenant is willing to accept a tenancy of part of the holding, the order shall be an order for the grant of a new tenancy of that part only.
- (2) The foregoing provisions of this section shall not apply in a case where the property comprised in the current tenancy includes other property besides the holding and the landlord requires any new tenancy ordered to be granted under section 29 of this Act to be a tenancy of the whole of the property comprised in the current tenancy; but in any such case—
- (a) any order under the said section 29 for the grant of a new tenancy shall be an order for the grant of a new tenancy of the whole of the property comprised in the current tenancy, and
- (b) references in the following provisions of this Part of this Act to the holding shall be construed as references to the whole of that property.

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- (3) Where the current tenancy includes rights enjoyed by the tenant in connection with the holding, those rights shall be included in a tenancy ordered to be granted under section 29 of this Act, except as otherwise agreed between the landlord and the tenant or, in default of such agreement, determined by the court.

Rent under new tenancy.

- 34 (1) The rent payable under a tenancy granted by order of the court under this Part of this Act shall be such as may be agreed between the landlord and the tenant or as, in default of such agreement, may be determined by the court to be that at which, having regard to the terms of the tenancy (other than those relating to rent), the holding might reasonably be expected to be let in the open market by a willing lessor, there being disregarded—
- (a) any effect on rent of the fact that the tenant has or his predecessors in title have been in occupation of the holding,
 - (b) any goodwill attached to the holding by reason of the carrying on thereat of the business of the tenant (whether by him or by a predecessor of his in that business),
 - (c) any effect on rent of an improvement to which this paragraph applies,
 - (d) in the case of a holding comprising licensed premises, any addition to its value attributable to the licence, if it appears to the court that having regard to the terms of the current tenancy and any other relevant circumstances the benefit of the licence belongs to the tenant.
- (2) Paragraph (c) of the foregoing subsection applies to any improvement carried out by a person who at the time it was carried out was the tenant, but only if it was carried out otherwise than in pursuance of an obligation to his immediate landlord and either it was carried out during the current tenancy or the following conditions are satisfied, that is to say,—
- (a) that it was completed not more than twenty-one years before the application for the new tenancy was made; and
 - (b) that the holding or any part of it affected by the improvement has at all times since the completion of the improvement been comprised in tenancies of the description specified in section 23(1) of this Act; and
 - (c) that at the termination of each of those tenancies the tenant did not quit.
- (3) Where the rent is determined by the court the court may, if it thinks fit, further determine that the terms of the tenancy shall include such provision for varying the rent as may be specified in the determination.

Compensation where order for new tenancy precluded on certain grounds.

- 37 (1) Where on the making of an application under section 24 of this Act the court is precluded (whether by subsection (1) or subsection (2) of section 31 of this Act) from making an order for the grant of a new tenancy by reason of any of the grounds specified in paragraphs (e), (f) and (g) of subsection (1) of section 30 of this Act and not of any grounds specified in any other paragraph of that subsection, or where no other ground is specified in the landlord's notice under section 25 of this Act or, as the case may be, under section 26(6) thereof, than those specified in the said paragraphs (e), (f) and (g) and either no application under the said section 24 is made or such an application is withdrawn, then, subject to the provisions of this Act, the tenant shall be entitled on quitting the holding to recover from the landlord by way

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of compensation an amount determined in accordance with the following provisions of this section.

- (2) The said amount shall be as follows, that is to say,—
 - (a) where the conditions specified in the next following subsection are satisfied it shall be twice the rateable value of the holding,
 - (b) in any other case it shall be the rateable value of the holding.
- (3) The said conditions are—
 - (a) that, during the whole of the fourteen years immediately preceding the termination of the current tenancy, premises being or comprised in the holding have been occupied for the purposes of a business carried on by the occupier or for those and other purposes;
 - (b) that, if during those fourteen years there was a change in the occupier of the premises, the person who was the occupier immediately after the change was the successor to the business carried on by the person who was the occupier immediately before the change.
- (4) Where the court is precluded from making an order for the grant of a new tenancy under this Part of this Act in the circumstances mentioned in subsection (1) of this section, the court shall on the application of the tenant certify that fact.
- (5) For the purposes of subsection (2) of this section the rateable value of the holding shall be determined as follows:—
 - (a) where in the valuation list in force at the date on which the landlord's notice under section 25 or, as the case may be, subsection (6) of section 26 of this Act is given a value is then shown as the annual value (as hereinafter defined) of the holding, the rateable value of the holding shall be taken to be that value;
 - (b) where no such value is so shown with respect to the holding but such a value or such values is or are so shown with respect to premises comprised in or comprising the holding or part of it, the rateable value of the holding shall be taken to be such value as is found by a proper apportionment or aggregation of the value or values so shown;
 - (c) where the rateable value of the holding cannot be ascertained in accordance with the foregoing paragraphs of this subsection, it shall be taken to be the value which, apart from any exemption from assessment to rates, would on a proper assessment be the value to be entered in the said valuation list as the annual value of the holding;and any dispute arising, whether in proceedings before the court or otherwise, as to the determination for those purposes of the rateable value of the holding shall be referred to the Commissioners of Inland Revenue for decision by a valuation officer.

An appeal shall lie to the Lands Tribunal from any decision of a valuation officer under this subsection, but subject thereto any such decision shall be final.
- (6) The Commissioners of Inland Revenue may by statutory instrument make rules prescribing the procedure in connection with references under this section.
- (7) In this section—

the reference to the termination of the current tenancy is a reference to the date of termination specified in the landlord's notice under section 25 of this Act or, as the case may be, the date specified in the tenant's request for a new tenancy as the date from which the new tenancy is to begin;

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

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

Restriction on agreements excluding provisions of Part II.

38 (1) Any agreement relating to a tenancy to which this Part of this Act applies (whether contained in the instrument creating the tenancy or not) shall be void (except as provided by subsection (4) of this section) in so far as it purports to preclude the tenant from making an application or request under this Part of this Act or provides for the termination or the surrender of the tenancy in the event of his making such an application or request or for the imposition of any penalty or disability on the tenant in that event.

(2) Where—

- (a) during the whole of the five years immediately preceding the date on which the tenant under a tenancy to which this Part of this Act applies is to quit the holding, premises being or comprised in the holding have been occupied for the purposes of a business carried on by the occupier or for those and other purposes, and
- (b) if during those five years there was a change in the occupier of the premises, the person who was the occupier immediately after the change was the successor to the business carried on by the person who was the occupier immediately before the change,

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

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

(4) The court may—

- (a) on the joint application of the persons who will be the landlord and the tenant in relation to a tenancy to be granted for a term of years certain which will be a tenancy to which this Part of this Act applies, authorise an agreement excluding in relation to that tenancy the provisions of sections 24 to 28 of this Act; and
- (b) on the joint application of the persons who are the landlord and the tenant in relation to a tenancy to which this Part of this Act applies, authorise an agreement for the surrender of the tenancy on such date or in such circumstances as may be specified in the agreement and on such terms (if any) as may be so specified;

if the agreement is contained in or endorsed on the instrument creating the tenancy or such other instrument as the court may specify; and an agreement contained in or endorsed on an instrument in pursuance of an authorisation given under this

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subsection shall be valid notwithstanding anything in the preceding provisions of this section.

Groups of companies.

- 42 (1) For the purposes of this section two bodies corporate shall be taken to be members of a group if and only if one is a subsidiary of the other or both are subsidiaries of a third body corporate.

In this subsection “subsidiary” has the same meaning as is assigned to it for the purposes of the ^{M2}Companies Act 1948 by section 154 of that Act.

- (2) Where a tenancy is held by a member of a group, occupation by another member of the group, and the carrying on of a business by another member of the group, shall be treated for the purposes of section 23 of this Act as equivalent to occupation or the carrying on of a business by the member of the group holding the tenancy: and in relation to a tenancy to which this Part of this Act applies by virtue of the foregoing provisions of this subsection—
- (a) references (however expressed) in this Part of this Act and in the Ninth Schedule to this Act to the business of or to use occupation or enjoyment by the tenant shall be construed as including references to the business of or to use occupation or enjoyment by the said other member;
 - (b) the reference in paragraph (d) of subsection (1) of section 34 of this Act to the tenant shall be construed as including the said other member; and
 - (c) an assignment of the tenancy from one member of the group to another shall not be treated as a change in the person of the tenant.
- (3) Where the landlord’s interest is held by a member of a group—
- (a) the reference in paragraph (g) of subsection (1) of section 30 of this Act to intended occupation by the landlord for the purposes of a business to be carried on by him shall be construed as including intended occupation by any member of the group for the purposes of a business to be carried on by that member; and
 - (b) the reference in subsection (2) of that section to the purchase or creation of any interest shall be construed as a reference to a purchase from or creation by a person other than a member of the group.

Marginal Citations

M2 1948 c. 38.

Tenancies excluded from Part II.

- 43 (3) This Part of this Act does not apply to a tenancy granted for a term certain not exceeding six months unless—
- (a) the tenancy contains provision for renewing the term or for extending it beyond six months from its beginning; or
 - (b) the tenant has been in occupation for a period which, together with any period during which any predecessor in the carrying on of the business carried on by the tenant was in occupation, exceeds twelve months.

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Meaning of “the landlord” in Part II, and provisions as to mesne landlords etc.

- 44 (1) Subject to the next following subsection, in this Part of this Act the expression “the landlord”, in relation to a tenancy (in this section referred to as “the relevant tenancy”), means the person (whether or not he is the immediate landlord) who is the owner of that interest in the property comprised in the relevant tenancy which for the time being fulfils the following conditions, that is to say—
- (a) that it is an interest in reversion expectant (whether immediately or not) on the termination of the relevant tenancy, and
 - (b) that it is either the fee simple or a tenancy which will not come to an end within fourteen months by effluxion of time and, if it is such a tenancy, that no notice has been given by virtue of which it will come to an end within fourteen months or any further time by which it may be continued under section 36(2) or section 64 of this Act.
- and is not itself in reversion expectant (whether immediately or not) on an interest which fulfils those conditions.
- (2) References in this Part of this Act to a notice to quit given by the landlord are references to a notice to quit given by the immediate landlord.
- (3) The provisions of the Sixth Schedule to this Act shall have effect for the application of this Part of this Act to cases where the immediate landlord of the tenant is not the owner of the fee simple in respect of the holding.

SIXTH SCHEDULE

PROVISIONS FOR PURPOSES OF PART II WHERE IMMEDIATE LANDLORD IS NOT THE FREEHOLDER

Definitions

- 1 In this Schedule the following expressions have the meanings hereby assigned to them in relation to a tenancy (in this Schedule referred to as “the relevant tenancy”), that is to say:—
- “the competent landlord” means the person who in relation to the tenancy is for the time being the landlord (as defined by section 44 of this Act) for the purposes of Part II of this Act;
- “mesne landlord” means a tenant whose interest is intermediate between the relevant tenancy and the interest of the competent landlord; and
- “superior landlord” means a person (whether the owner of the fee simple or a tenant) whose interest is superior to the interest of the competent landlord.

Power of court to order reversionary tenancies

- 2 Where the period for which in accordance with the provisions of Part II of this Act it is agreed or determined by the court that a new tenancy should be granted thereunder will extend beyond the date on which the interest of the immediate landlord will come to an end, the power of the court under Part II of this Act to order such a grant shall include power to order the grant of a new tenancy until the expiration of that interest and also to order the grant of such a reversionary tenancy

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or reversionary tenancies as may be required to secure that the combined effects of those grants will be equivalent to the grant of a tenancy for that period; and the provisions of Part II of this Act shall, subject to the necessary modifications, apply in relation to the grant of a tenancy together with one or more reversionary tenancies as they apply in relation to the grant of one new tenancy.

Acts of competent landlord binding on other landlords

- 3 (1) Any notice given by the competent landlord under Part II of this Act to terminate the relevant tenancy, and any agreement made between that landlord and the tenant as to the granting, duration, or terms of a future tenancy, being an agreement made for the purposes of the said Part II, shall bind the interest of any mesne landlord notwithstanding that he has not consented to the giving of the notice or was not a party to the agreement.
- (2) The competent landlord shall have power for the purposes of Part II of this Act to give effect to any agreement with the tenant for the grant of a new tenancy beginning with the coming to an end of the relevant tenancy, notwithstanding that the competent landlord will not be the immediate landlord at the commencement of the new tenancy, and any instrument made in the exercise of the power conferred by this sub-paragraph shall have effect as if the mesne landlord had been a party thereto.
- (3) Nothing in the foregoing provisions of this paragraph shall prejudice the provisions of the next following paragraph.

Provisions as to consent of mesne landlord to acts of competent landlord

- 4 (1) If the competent landlord, not being the immediate landlord, gives any such notice or makes any such agreement as is mentioned in sub-paragraph (1) of the last foregoing paragraph without the consent of every mesne landlord, any mesne landlord whose consent has not been given thereto shall be entitled to compensation from the competent landlord for any loss arising in consequence of the giving of the notice or the making of the agreement.
- (2) If the competent landlord applies to any mesne landlord for his consent to such a notice or agreement, that consent shall not be unreasonably withheld, but may be given subject to any conditions which may be reasonable (including conditions as to the modification of the proposed notice or agreement or as to the payment of compensation by the competent landlord).
- (3) Any question arising under this paragraph whether consent has been unreasonably withheld or whether any conditions imposed on the giving of consent are unreasonable shall be determined by the court.

Consent of superior landlord required for agreements affecting his interest

- 5 An agreement between the competent landlord and the tenant made for the purposes of Part II of this Act in a case where—
- (a) the competent landlord is himself a tenant, and
 - (b) the agreement would apart from this paragraph operate as respects any period after the coming to an end of the interest of the competent landlord,
- shall not have effect unless every superior landlord who will be the immediate landlord of the tenant during any part of that period is a party to the agreement.

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Withdrawal by competent landlord of notice given by mesne landlord

6 Where the competent landlord has given a notice under section 25 of this Act to terminate the relevant tenancy and, within two months after the giving of the notice, a superior landlord—

- (a) becomes the competent landlord; and
- (b) gives to the tenant notice in the prescribed form that he withdraws the notice previously given;

the notice under section 25 of this Act shall cease to have effect, but without prejudice to the giving of a further notice under that section by the competent landlord.

Duty to inform superior landlords

7 If the competent landlord's interest in the property comprised in the relevant tenancy is a tenancy which will come or can be brought to an end within sixteenth months (or any further time by which it may be continued under section 36(2) or section 64 of this Act) and he gives to the tenant under the relevant tenancy a notice under section 25 of this Act to terminate the tenancy or is given by him a notice under section 26(3) of this Act:—

- (a) the competent landlord shall forthwith send a copy of the notice to his immediate landlord; and
- (b) any superior landlord whose interest in the property is a tenancy shall forthwith send to his immediate landlord any copy which has been sent to him in pursuance of the preceding sub-paragraph or this sub-paragraph.

SCHEDULE 2

Sections 16 and 17.

YORKSHIRE REGISTRIES: REPEALS

PART I

ENACTMENTS RELATING TO REGISTRATION OF DEEDS

Chapter	Short Title	Extent of Repeal
47 & 48 Vict. c. 54.	The Yorkshire Registries Act 1884.	The whole Act, except section 49.
48 & 49 Vict. c. 4	The Yorkshire Registries Amendment Act 1884.	The whole Act.
48 & 49 Vict. c. 26.	The Yorkshire Registries Amendment Act 1885.	The whole Act.
51 & 52 Vict. c. 41.	The Local Government Act 1888.	Section 46(4).
10 Edw. 7 & 1 Geo. 5. c. cxviii.	The East Riding County Council Act 1910.	Section 3.

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7 & 8 Geo. 5. c. v.	The Yorkshire Registries (North Riding) Amendment Act 1917.	The whole Act.
15 & 16 Geo. 5. c. 20.	The Law of Property Act 1925.	Section 11. In section 94(2) the words “or in a local deeds registry”. In section 96(2) the words “or in a local deeds register”. Section 197.
15 & 16 Geo. 5. c. 21.	The Land Registration Act 1925.	Sections 125, 135 and 136.
16 & 17 Geo. 5. c. 11.	The Law of Property (Amendment) Act 1926.	In the Schedule, in the entry relating to section 96 of the Law of Property Act 1925, the words “or in a local deeds register”.
7 & 8 Geo. 6. c. i.	The Yorkshire Registries (West Riding) Amendment Act 1944.	The whole Act.
5 & 6 Eliz. 2. c. 56.	The Housing Act 1957.	In section 15(6) the words from “or of the Yorkshire Registries Act 1884” onwards.
1965 c. 64.	The Commons Registration Act 1965.	In section 13, the words from “and may exclude” onwards.
1966 c. xxvi.	The Yorkshire Registries Amendment Act 1966.	The whole Act.
1969 c. xxxviii.	The York Corporation Act 1969.	Section 24.

PART II

ENACTMENTS RELATING TO LAND CHARGES

Chapter	Short Title	Extent of Repeal
15 & 16 Geo. 5. c. 20.	The Law of Property Act 1925.	In section 97 the words “or of land within the jurisdiction of a local deeds registry”.
15 & 16 Geo. 6. c. 22.	The Land Charges Act 1925.	Section 10(6). Section 20(12).

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16 & 17 Geo. 5. c. 11.	The Law of Property (Amendment) Act 1926.	In the Schedule, the second entry relating to section 10 of the Land Charges Act 1925.
1967 c. 75.	The Matrimonial Homes Act 1967.	In the Schedule, paragraph 1.

SCHEDULE 3

Section 28.

M³LAW OF PROPERTY ACT 1925 SECTION 84 REPRINTED WITH AMENDMENTS

Marginal Citations

M3 1925 c. 20.

- 84 (1) The Lands Tribunal shall (without prejudice to any concurrent jurisdiction of the court) have power from time to time, on the application of any person interested in any freehold land affected by any restriction arising under covenant or otherwise as to the user thereof or the building thereon, by order wholly or partially to discharge or modify any such restriction on being satisfied—
- (a) that by reason of changes in the character of the property or the neighbourhood or other circumstances of the case which the Lands Tribunal may deem material, the restriction ought to be deemed obsolete; or
 - (aa) that (in a case falling within subsection (1A) below) the continued existence thereof would impede some reasonable user of the land for public or private purposes or, as the case may be, would unless modified so impede such user; or
 - (b) that the persons of full age and capacity for the time being or from time to time entitled to the benefit of the restriction, whether in respect of estates in fee simple or any lesser estates or interests in the property to which the benefit of the restriction is annexed, have agreed, either expressly or by implication, by their acts or omissions, to the same being discharged or modified; or
 - (c) that the proposed discharge or modification will not injure the persons entitled to the benefit of the restriction;
- and an order discharging or modifying a restriction under this subsection may direct the applicant to pay to any person entitled to the benefit of the restriction such sum by way of consideration as the Tribunal may think it just to award under one, but not both, of the following heads, that is to say, either—
- (i) a sum to make up for any loss or disadvantage suffered by that person in consequence of the discharge or modification; or
 - (ii) a sum to make up for any effect which the restriction had, at the time when it was imposed, in reducing the consideration then received for the land affected by it.
- (1A) Subsection (1)(aa) above authorises the discharge or modification of a restriction by reference to its impeding some reasonable user of land in any case in which the Lands Tribunal is satisfied that the restriction, in impeding that user, either—

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- (a) does not secure to persons entitled to the benefit of it any practical benefits of substantial value or advantage to them; or
- (b) is contrary to the public interest;

and that money will be an adequate compensation for the loss or disadvantage (if any) which any such person will suffer from the discharge or modification.

(1B) In determining whether a case is one falling within subsection (1A) above, and in determining whether (in any such case or otherwise) a restriction ought to be discharged or modified, the Lands Tribunal shall take into account the development plan and any declared or ascertainable pattern for the grant or refusal of planning permissions in the relevant areas, as well as the period at which and context in which the restriction was created or imposed and any other material circumstances.

(1C) It is hereby declared that the power conferred by this section to modify a restriction includes power to add such further provisions restricting the user of or the building on the land affected as appear to the Lands Tribunal to be reasonable in view of the relaxation of the existing provisions, and as may be accepted by the applicant; and the Lands Tribunal may accordingly refuse to modify a restriction without some such addition.

- (2) The court shall have power on the application of any person interested—
 - (a) to declare whether or not in any particular case any freehold land is, or would in any given event be, affected by a restriction imposed by any instrument; or
 - (b) to declare what, upon the true construction of any instrument purporting to impose a restriction, is the nature and extent of the restriction thereby imposed and whether the same is, or would in any given event be, enforceable and if so by whom.

Neither subsections (7) and (11) of this section nor, unless the contrary is expressed, any later enactment providing for this section not to apply to any restrictions shall affect the operation of this subsection or the operation for purposes of this subsection of any other provisions of this section.

- (3) The Lands Tribunal shall, before making any order under this section, direct such enquiries, if any, to be made of any government department or local authority, and such notices, if any, whether by way of advertisement or otherwise, to be given to such of the persons who appear to be entitled to the benefit of the restriction intended to be discharged, modified, or dealt with as, having regard to any enquiries, notices or other proceedings previously made, given or taken, the Lands Tribunal may think fit.
- (3A) On an application to the Lands Tribunal under this section the Lands Tribunal shall give any necessary directions as to the persons who are or are not to be admitted (as appearing to be entitled to the benefit of the restriction) to oppose the application, and no appeal shall lie against any such direction; but rules under the ^{M4}Lands Tribunal Act 1949 shall make provision whereby, in cases in which there arises on such an application (whether or not in connection with the admission of persons to oppose) any such question as is referred to in subsection (2)(a) or (b) of this section, the proceedings on the application can and, if the rules so provide, shall be suspended to enable the decision of the court to be obtained on that question by an application under that subsection, or by means of a case stated by the Lands Tribunal, or otherwise, as may be provided by those rules or by rules of court.
- (5) Any order made under this section shall be binding on all persons, whether ascertained or of full age or capacity or not, then entitled or thereafter capable of

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becoming entitled to the benefit of any restriction, which is thereby discharged, modified or dealt with, and whether such persons are parties to the proceedings or have been served with notice or not.

- (6) An order may be made under this section notwithstanding that any instrument which is alleged to impose the restriction intended to be discharged, modified, or dealt with, may not have been produced to the court or the Lands Tribunal, and the court or the Lands Tribunal may act on such evidence of that instrument as it may think sufficient.
- (7) This section applies to restrictions whether subsisting at the commencement of this Act or imposed thereafter, but this section does not apply where the restriction was imposed on the occasion of a disposition made gratuitously or for a nominal consideration for public purposes.
- (8) This section applies whether the land affected by the restrictions is registered or not, but, in the case of registered land, the Land Registrar shall give effect on the register to any order under this section in accordance with the ^{M5}Land Registration Act 1925.
- (9) Where any proceedings by action or otherwise are taken to enforce a restrictive covenant, any person against whom the proceedings are taken, may in such proceedings apply to the court for an order giving leave to apply to the Lands Tribunal under this section, and staying the proceedings in the meantime.
- (11) This section does not apply to restrictions imposed by the Commissioners of Works under any statutory power for the protection of any Royal Park or Garden or to restrictions of a like character imposed upon the occasion of any enfranchisement effected before the commencement of this Act in any manor vested in His Majesty in right of the Crown or the Duchy of Lancaster, nor (subject to subsection (11A) below) to restrictions created or imposed—
- (a) for naval, military or air force purposes,
 - (b) for civil aviation purposes under the powers of the ^{M6}Air Navigation Act, 1920 or of section 19 or 23 of the ^{M7}Civil Aviation Act 1949.
- (11A) Subsection (11) of this section—
- (a) shall exclude the application of this section to a restriction falling within subsection (11)(a), and not created or imposed in connection with the use of any land as an aerodrome, only so long as the restriction is enforceable by or on behalf of the Crown; and
 - (b) shall exclude the application of this section to a restriction falling within subsection (11)(b), or created or imposed in connection with the use of any land as an aerodrome, only so long as the restriction is enforceable by or on behalf of the Crown or any public or international authority.
- (12) Where a term of more than forty years is created in land (whether before or after the commencement of this Act) this section shall, after the expiration of twenty-five years of the term, apply to restrictions affecting such leasehold land in like manner as it would have applied had the land been freehold:
Provided that this subsection shall not apply to mining leases.

Marginal Citations

- M4** 1949 c. 42.
M5 1925 c. 21.
M6 1920 c. 80.

Changes to legislation: There are currently no known outstanding effects
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M7 1949 c. 67.

Changes to legislation:

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