



# Landlord and Tenant Act 1987

## 1987 CHAPTER 31

### PART III

#### COMPULSORY ACQUISITION BY TENANTS OF THEIR LANDLORD'S INTEREST

#### **25 Compulsory acquisition of landlord's interest by qualifying tenants**

- (1) This Part has effect for the purpose of enabling qualifying tenants of flats contained in any premises to which this Part applies to make an application to the court for an order providing for a person nominated by them to acquire their landlord's interest in the premises without his consent; and any such order is referred to in this Part as "an acquisition order".
- (2) Subject to subsections (4) and (5), this Part applies to premises if—
  - (a) they consist of the whole or part of a building; and
  - (b) they contain two or more flats held by tenants of the landlord who are qualifying tenants; and
  - (c) the appropriate requirement specified in subsection (3) is satisfied with respect to them.
- (3) For the purposes of subsection (2)(c) the appropriate requirement is—
  - (a) where the premises contain less than four flats, that all of the flats are let by the landlord on long leases;
  - (b) where the premises contain more than three but less than ten flats, that all, or all but one, of the flats are so let; and
  - (c) where the premises contain ten or more flats, that at least 90 per cent, of the flats are so let.
- (4) This Part does not apply to premises falling within subsection (2) if—
  - (a) any part or parts of the premises is or are occupied or intended to be occupied otherwise than for residential purposes; and
  - (b) the internal floor area of that part or those parts (taken together) exceeds 50 per cent. of the internal floor area of the premises (taken as a whole);

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and for the purposes of this subsection the internal floor area of any common parts shall be disregarded.

- (5) This Part also does not apply to any such premises at a time when—
- (a) the interest of the landlord in the premises is held by an exempt landlord or a resident landlord, or
  - (b) the premises are included within the functional land of any charity.
- (6) The Secretary of State may by order substitute for the percentage for the time being specified in subsection (4)(b) such other percentage as is specified in the order.

## **26 Qualifying tenants**

- (1) Subject to subsections (2) and (3), a person is a qualifying tenant of a flat for the purposes of this Part if he is the tenant of the flat under a long lease other than one constituting a tenancy to which Part II of the Landlord and Tenant Act 1954 applies.
- (2) A person is not to be regarded as being a qualifying tenant of a flat contained in any particular premises consisting of the whole or part of a building if he is the tenant of the flat solely by reason of a long lease under which the demised premises consist of or include—
- (a) the flat and one or more other flats, or
  - (b) the flat and any common parts of the building.
- (3) A tenant of a flat under a long lease whose landlord is a qualifying tenant of that flat is not to be regarded as being a qualifying tenant of that flat.

## **27 Preliminary notice by tenants**

- (1) Before an application for an acquisition order is made in respect of any premises to which this Part applies, a notice under this section must (subject to subsection (3)) be served on the landlord by qualifying tenants of the flats contained in the premises who, at the date when it is served, constitute the requisite majority of such tenants.
- (2) A notice under this section must—
- (a) specify the names of the qualifying tenants by whom it is served, the addresses of their flats and the name and the address in England and Wales of a person on whom the landlord may serve notices (including notices in proceedings) in connection with this Part instead of serving them on those tenants;
  - (b) state that those tenants intend to make an application for an acquisition order to be made by the court in respect of such premises to which this Part applies as are specified in the notice, but (if paragraph (d) is applicable) that they will not do so if the landlord complies with the requirement specified in pursuance of that paragraph;
  - (c) specify the grounds on which the court would be asked to make such an order and the matters that would be relied on by the tenants for the purpose of establishing those grounds;
  - (d) where those matters are capable of being remedied by the landlord, require the landlord, within such reasonable period as is specified in the notice, to take such steps for the purpose of remedying them as are so specified; and
  - (e) contain such information (if any) as the Secretary of State may by regulations prescribe.

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- (3) The court may by order dispense with the requirement to serve a notice under this section in a case where it is satisfied that it would not be reasonably practicable to serve such a notice on the landlord, but the court may, when doing so, direct that such other notices are served, or such other steps are taken, as it thinks fit.
- (4) Any reference in this Part to the requisite majority of qualifying tenants of the flats contained in any premises is a reference to qualifying tenants of the flats so contained with more than 50 per cent. of the available votes; and for the purposes of this subsection—
  - (a) the total number of available votes shall correspond to the total number of those flats for the time being let to qualifying tenants; and
  - (b) there shall be one available vote in respect of each of the flats so let which shall be attributed to the qualifying tenant to whom it is let.
- (5) Nothing in this Part shall be construed as requiring the persons constituting any such majority in any one context to be the same as the persons constituting any such majority in any other context.

## **28 Applications for acquisition orders**

- (1) An application for an acquisition order in respect of any premises to which this Part applies must be made by qualifying tenants of the flats contained in the premises who, at the date when it is made, constitute the requisite majority of such tenants.
- (2) No such application shall be made to the court unless—
  - (a) in a case where a notice has been served under section 27, either—
    - (i) the period specified in pursuance of paragraph (d) of subsection (2) of that section has expired without the landlord having taken the steps that he was required to take in pursuance of that provision, or
    - (ii) that paragraph was not applicable in the circumstances of the case; or
  - (b) in a case where the requirement to serve such a notice has been dispensed with by an order under subsection (3) of that section, either—
    - (i) any notices required to be served, and any other steps required to be taken, by virtue of the order have been served or (as the case may be) taken, or
    - (ii) no direction was given by the court when making the order.
- (3) An application for an acquisition order may, subject to the preceding provisions of this Part, be made in respect of two or more premises to which this Part applies.
- (4) Rules of court shall make provision—
  - (a) for requiring notice of an application for an acquisition order in respect of any premises to be served on such descriptions of persons as may be specified in the rules; and
  - (b) for enabling persons served with any such notice to be joined as parties to the proceedings.
- (5) The Land Charges Act 1972 and the Land Registration Act 1925 shall apply in relation to an application for an acquisition order as they apply in relation to other pending land actions.
- (6) The persons applying for an acquisition order in respect of any premises to which this Part applies shall be treated for the purposes of section 57 of the Land Registration Act

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1925 (inhibitions) as persons interested in relation to any registered land containing the whole or part of those premises.

## **29 Conditions for making acquisition orders**

- (1) The court may, on an application for an acquisition order, make such an order in respect of any premises if—
  - (a) the court is satisfied—
    - (i) that those premises were, at the date of service on the landlord of the notice (if any) under section 27 and on the date when the application was made, premises to which this Part applies, and
    - (ii) that they have not ceased to be such premises since the date when the application was made, and
  - (b) either of the conditions specified in subsections (2) and (3) is fulfilled with respect to those premises, and
  - (c) the court considers it appropriate to make the order in the circumstances of the case.
- (2) The first of the conditions referred to in subsection (1)(b) is that the court is satisfied—
  - (a) that the landlord either is in breach of any obligation owed by him to the applicants under their leases and relating to the repair, maintenance, insurance or management of the premises in question, or any part of them, or (in the case of an obligation dependent on notice) would be in breach of any such obligation but for the fact that it has not been reasonably practicable for the tenant to give him the appropriate notice, and
  - (b) that the circumstances by virtue of which he is (or would be) in breach of any such obligation are likely to continue, and
  - (c) that the appointment of a manager under Part II to act in relation to those premises would not be an adequate remedy.
- (3) The second of those conditions is that, both at the date when the application was made and throughout the period of three years immediately preceding that date, there was in force an appointment under Part II of a person to act as manager in relation to the premises in question.
- (4) An acquisition order may, if the court thinks fit—
  - (a) include any yard, garden, outhouse or appurtenance belonging to, or usually enjoyed with, the premises specified in the application on which the order is made;
  - (b) exclude any part of the premises so specified.
- (5) Where—
  - (a) the premises in respect of which an application for an acquisition order is made consist of part only of more extensive premises in which the landlord has an interest, and
  - (b) it appears to the court that the landlord's interest in the latter premises is not reasonably capable of being severed, either in the manner contemplated by the application or in any manner authorised by virtue of subsection (4)(b),then, notwithstanding that paragraphs (a) and (b) of subsection (1) apply, the court shall not make an acquisition order on the application.

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- (6) In a case where an application for an acquisition order was preceded by the service of a notice under section 27, the court may, if it thinks fit, make such an order notwithstanding—
- (a) that any period specified in the notice in pursuance of subsection (2)(d) of that section was not a reasonable period, or
  - (b) that the notice failed in any other respect to comply with any requirement contained in subsection (2) of that section or in any regulations applying to the notice under section 54(3).
- (7) Where any premises are premises to which this Part applies at the time when an application for an acquisition order is made in respect of them, then, for the purposes of this section and the following provisions of this Part, they shall not cease to be such premises by reason only that—
- (a) the interest of the landlord in them subsequently becomes held by an exempt landlord or a resident landlord, or
  - (b) they subsequently become included within the functional land of any charity.

### **30 Content of acquisition orders**

- (1) Where an acquisition order is made by the court, the order shall (except in a case falling within section 33(1)) provide for the nominated person to be entitled to acquire the landlord's interest in the premises specified in the order on such terms as may be determined—
- (a) by agreement between the landlord and the qualifying tenants in whose favour the order is made, or
  - (b) in default of agreement, by a rent assessment committee under section 31.
- (2) An acquisition order may be granted subject to such conditions as the court thinks fit, and in particular its operation may be suspended on terms fixed by the court.
- (3) References in this Part, in relation to an acquisition order, to the nominated person are references to such person or persons as may be nominated for the purposes of this Part by the persons applying for the order.
- (4) Those persons must secure that the nominated person is joined as a party to the application, and no further nomination of a person for the purposes of this Part shall be made by them after the order is made (whether in addition to, or in substitution for, the existing nominated person) except with the approval of the court.
- (5) Where the landlord is, by virtue of any covenant, condition or other obligation, precluded from disposing of his interest in the premises in respect of which an acquisition order has been made unless the consent of some other person is obtained—
- (a) he shall use his best endeavours to secure that the consent of that person to that disposal is obtained and, if it appears to him that that person is obliged not to withhold his consent unreasonably but has nevertheless so withheld it, shall institute proceedings for a declaration to that effect; but
  - (b) if—
    - (i) the landlord has discharged any duty imposed on him by paragraph (a), and
    - (ii) the consent of that person has been withheld, and
    - (iii) no such declaration has been made,the order shall cease to have effect.

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- (6) The Land Charges Act 1972 and the Land Registration Act 1925 shall apply in relation to an acquisition order as they apply in relation to an order affecting land made by the court for the purpose of enforcing a judgment or recognisance.

### **31 Determination of terms by rent assessment committees**

- (1) A rent assessment committee shall have jurisdiction to determine the terms on which the landlord's interest in the premises specified in an acquisition order may be acquired by the nominated person to the extent that those terms have not been determined by agreement between the landlord and either—
- (a) the qualifying tenants in whose favour the order was made, or
  - (b) the nominated person;
- and (subject to subsection (2)) such a committee shall determine any such terms on the basis of what appears to them to be fair and reasonable.
- (2) Where an application is made under this section for such a committee to determine the consideration payable for the acquisition of a landlord's interest in any premises, the committee shall do so by determining an amount equal to the amount which, in their opinion, that interest might be expected to realise if sold on the open market by a willing seller on the appropriate terms and on the assumption that none of the tenants of the landlord of any premises comprised in those premises was buying or seeking to buy that interest.
- (3) In subsection (2) "the appropriate terms" means all of the terms to which the acquisition of the landlord's interest in pursuance of the order is to be subject (whether determined by agreement as mentioned in subsection (1) or on an application under this section) apart from those relating to the consideration payable.
- (4) On any application under this section the interests of the qualifying tenants in whose favour the acquisition order was made shall be represented by the nominated person, and accordingly the parties to any such application shall not include those tenants.
- (5) Subsections (2), (4) and (5) of section 13 shall apply for the purposes of this section as they apply for the purposes of that section, but as if the reference in subsection (5) to subsection (1) of that section were a reference to subsection (1) of this section.
- (6) Nothing in this section shall be construed as authorising a rent assessment committee to determine any terms dealing with matters in relation to which provision is made by section 32 or 33.

### **32 Discharge of existing mortgages**

- (1) Where the landlord's interest in any premises is acquired in pursuance of an acquisition order, the instrument by virtue of which it is so acquired shall (subject to subsection (2) and Part II of Schedule 1) operate to discharge the premises from any charge on that interest to secure the payment of money or the performance of any other obligation by the landlord or any other person.
- (2) Subsection (1) does not apply to any such charge if—
- (a) it has been agreed between the landlord and either—
    - (i) the qualifying tenants in whose favour the order was made, or
    - (ii) the nominated person,

- that the landlord's interest should be acquired subject to the charge, or
- (b) the court is satisfied, whether on the application for the order or on an application made by the person entitled to the benefit of the charge, that in the exceptional circumstances of the case it would be fair and reasonable that the landlord's interest should be so acquired, and orders accordingly.

- (3) This section and Part II of Schedule 1 shall apply, with any necessary modifications, to mortgages and liens as they apply to charges; but nothing in those provisions shall apply to a rentcharge.

### **33 Acquisition order where landlord cannot be found**

- (1) Where an acquisition order is made by the court in a case where the landlord cannot be found, or his identity cannot be ascertained, the order shall provide for the landlord's interest in the premises specified in the order to vest in the nominated person on the following terms, namely—
  - (a) such terms as to payment as are specified in subsection (2), and
  - (b) such other terms as the court thinks fit, being terms which, in the opinion of the court, correspond so far as possible to those on which the interest might be expected to be transferred if it were being transferred by the landlord.
- (2) The terms as to payment referred to in subsection (1)(a) are terms requiring the payment into court of—
  - (a) such amount as a surveyor selected by the President of the Lands Tribunal may certify to be in his opinion the amount which the landlord's interest might be expected to realise if sold as mentioned in section 31(2); and
  - (b) any amounts or estimated amounts remaining due to the landlord from any tenants of his of any premises comprised in the premises in respect of which the order is made, being amounts or estimated amounts determined by the court as being due from those persons under the terms of their leases.
- (3) Where any amount or amounts required by virtue of subsection (2) to be paid into court are so paid, the landlord's interest shall, by virtue of this section, vest in the nominated person in accordance with the order.

### **34 Discharge of acquisition order and withdrawal by tenants**

- (1) If, on an application by a landlord in respect of whose interest an acquisition order has been made, the court is satisfied—
  - (a) that the nominated person has had a reasonable time within which to effect the acquisition of that interest in pursuance of the order but has not done so, or
  - (b) that the number of qualifying tenants of flats contained in the premises in question who desire to proceed with the acquisition of the landlord's interest is less than the requisite majority of qualifying tenants of the flats contained in those premises, or
  - (c) that the premises in question have ceased to be premises to which this Part applies,the court may discharge the order.
- (2) Where—
  - (a) a notice is served on the landlord by the qualifying tenants by whom a notice has been served under section 27 or (as the case may be) by whom an

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- application has been made for an acquisition order, or by the person nominated for the purposes of this Part by any such tenants, and
- (b) the notice indicates an intention no longer to proceed with the acquisition of the landlord's interest in the premises in question,
- the landlord may (except in a case where subsection (4) applies) recover under this subsection any costs reasonably incurred by him in connection with the disposal by him of that interest down to the time when the notice is served ; and, if the notice is served after the making of an acquisition order, that order shall cease to have effect.
- (3) If (whether before or after the making of an acquisition order) the nominated person becomes aware—
- (a) that the number of qualifying tenants of flats contained in the premises in question who desire to proceed with the acquisition of the landlord's interest is less than the requisite majority of qualifying tenants of the flats contained in those premises, or
- (b) that those premises have ceased to be premises to which this Part applies,
- he shall forthwith serve on the landlord a notice indicating an intention no longer to proceed with the acquisition of that interest, and subsection (2) shall apply accordingly.
- (4) If, at any time when any proceedings taken under or by virtue of this Part are pending before the court or the Lands Tribunal—
- (a) such a notice as is mentioned in subsection (2) or (3) is served on the landlord, or
- (b) the nominated person indicates that he is no longer willing to act in the matter and nobody is nominated for the purposes of this Part in his place, or
- (c) the number of qualifying tenants of flats contained in the premises in question who desire to proceed with the acquisition of the landlord's interest falls below the requisite majority of qualifying tenants of the flats contained in those premises, or
- (d) those premises cease to be premises to which this Part applies,
- or if the court discharges an acquisition order under subsection (1), the landlord may recover such costs incurred by him in connection with the disposal by him of his interest in those premises as the court or (as the case may be) the Tribunal may determine.
- (5) The costs that may be recovered by the landlord under subsection (2) or (4) include costs incurred by him in connection with any proceedings under this Part (other than proceedings before a rent assessment committee).
- (6) Any liability for costs arising under this section shall be the joint and several liability of the following persons, namely—
- (a) where the liability arises before the making of an application for an acquisition order, the tenants by whom a notice was served under section 27, or
- (b) where the liability arises after the making of such an application, the tenants by whom the application was made,
- together with (in either case) any person nominated by those tenants for the purposes of this Part.
- (7) In relation to any time when a tenant falling within paragraph (a) or (b) of subsection (6) has ceased to have vested in him the interest under his lease, that paragraph shall be construed as applying instead to the person who is for the time being the successor in title to that interest.



(8) Nothing in this section shall be construed as authorising the court to discharge an acquisition order where the landlord's interest has already been acquired in pursuance of the order.

(9) If—

- (a) an acquisition order is discharged, or ceases to have effect, by virtue of any provision of this Part, and
- (b) the order has been protected by an entry registered under the Land Charges Act 1972 or the Land Registration Act 1925,

the court may by order direct that that entry shall be cancelled.