



# Long Leases (Scotland) Act 1954

## 1954 CHAPTER 49

### PART I

#### GRANT OF FEU RIGHT OF PROPERTY LET UNDER CERTAIN LONG LEASES

##### *Supplementary provisions*

#### **18 Rules for determining duration of lease or sub-lease**

- (1) For the purposes of this Part of this Act, the following rules shall apply in determining the duration of any lease or sub-lease:—
- (a) where the lease or sub-lease contains an obligation upon the person holding the interest of landlord thereunder to renew the same from time to time at fixed periods or upon the termination of a life or lives, the lease or sub-lease, as the case may be, shall be deemed to endure for the full period to which the obligation to renew applies;
  - (b) where the duration of the lease or sub-lease is wholly or partly dependent upon the endurance of a life or lives, then—
    - (i) in the case of the life of a person no longer in existence, regard shall be had to the period for which such life existed or, if such period cannot be ascertained, the endurance of such life shall be deemed to be thirty-five years ;
    - (ii) in the case of the life of an identifiable person in existence, the expectancy of life of such person shall be determined in accordance with the table set out in the Fifth Schedule to this Act;
    - (iii) in the case of the life of a person not yet in existence or not identifiable, the endurance of such life shall be deemed to be thirty-five years ;
  - (c) where the person holding the interest of landlord under the lease or sub-lease has an option thereunder to terminate such lease or sub-lease on a date falling after the commencement of this Act, the lease or sub-lease, as the case may be, shall be deemed to expire on such date or, where there is more than one such date, on the first such date.

- (2) For the purposes of section one of this Act, in determining the duration of any lease or sub-lease, regard shall not be had to the application (if any) to the lease or sub-lease of the Long Leases (Temporary Provisions) (Scotland) Act, 1951, as extended by the Leasehold Property Act and Long Leases (Scotland) Act Extension Act, 1953, or of sections fifteen or seventeen of this Act.

## **19 Rules for determining rent payable under lease or sub-lease**

For the purposes of this Part of this Act, the following rules shall apply in determining the rent payable under any lease or sub-lease:—

- (a) where the rent or a proportion thereof is payable in grain or other fungible or falls to be ascertained by reference to the price or value of grain or other fungible or otherwise than from the expression of the amount thereof in sterling money, the amount of such rent or of such proportion, as the case may be, shall be deemed to be equal to a sum in sterling money representing the average value, during the period of ten years immediately preceding the date of the notice given under section one of this Act by the occupying lessee, of the grain or other fungible delivered or deliverable or of the sum paid or payable in respect of such grain or other fungible;
- (b) where lawful services or other duties of an annually recurring nature are stipulated for in the lease or sub-lease, the annual value of such services or duties in sterling money as the same shall be determined by agreement between the parties or, in default of such agreement, by the sheriff, shall be deemed to be the rent payable under the lease or sub-lease, or shall be added to any rent payable otherwise under the lease or sublease, as the case may be :

Provided that where such services or duties have not been exacted or insisted on within the period of ten years immediately preceding the seventeenth day of December, nineteen hundred and fifty-three, no account shall be taken thereof.

## **20 Apportionment of rent**

Where for the purposes of this Part of this Act it is necessary to apportion the rent payable under any lease or sublease between two or more parts of the property let under such lease or sub-lease, the apportionment shall be made by agreement amongst the parties concerned or, in default of such agreement, by the sheriff.

## **21 Provisions regarding securities**

- (1) Where a feu right of any subjects is granted under this Part of this Act, any bond and assignation in security or other security (not being a security constituted by *ex facie* absolute assignation) which immediately prior to such grant burdened the interest of the occupying lessee shall, as from the appropriate date determined in accordance with the provisions of the next following subsection, have effect in relation to the said subjects as if it had been duly completed in accordance with the appropriate form usually employed in such cases for burdening property held in feu farm of a superior and shall burden the *dominium utile* of the subjects accordingly.
- (2) The appropriate date for the purposes of the foregoing subsection shall be—
  - (a) where the bond and assignation in security or other security has been recorded in the Register of Sasines before the date of the feu contract disposing the subjects, the date of the said feu contract;

- (b) where the bond and assignation in security or other security has not been so recorded before the date of the said feu contract, the date of recording such bond and assignation in security or other security in the Register of Sasines.
- (3) Any securities which by virtue of this section burden the *dominium utile* of any subjects and any *ex facie* absolute disposition of those subjects granted in accordance with the provisions of paragraph (d) of section fourteen of this Act shall be entitled to the same preferences inter se as if a feu right of those subjects had not been granted, and the creditors in right of securities which by virtue of this section burden the *dominium utile* of any subjects shall, in regard to the said subjects, be entitled to all the remedies competent to creditors holding corresponding securities over property held in feu farm for recovery of the sums due to them.
- (4) Where a feu right of any subjects is granted under this Part of this Act, any bond and disposition in security or other heritable security which immediately prior to such grant burdened the interest of the landlord in the said subjects shall, as from the date of the feu contract disposing the subjects, burden only the superiority and not the *dominium utile* thereof, and the creditors in right of such securities shall, in regard to the said subjects, be entitled to all the remedies competent to creditors holding corresponding securities over an estate of superiority for recovery of the sums due to them.
- (5) Where a feu right of any subjects is granted under this Part of this Act, any securities which immediately prior to such grant burdened the interest of an intermediate landlord shall, on the date of the feu contract disposing the said subjects, cease to burden such interest to the extent that such interest relates to the subjects and shall not burden or affect those subjects, but save as aforesaid such securities shall continue in full force and effect.
- (6) Any reference in this section to the date of a feu contract shall, in relation to a feu contract executed, on more than one date, be construed as a reference to the date on which such feu contract was last executed.

## **22 Expenses to be borne by occupying lessee**

The expenses of any valuation carried out under subsection (3) of section seven of this Act and the expenses of the preparation and execution of a feu contract or an *ex facie* absolute disposition under this Part of this Act, including the stamp duty payable thereon and the dues of recording the same, shall be borne by the occupying lessee.

## **23 Provisions regarding notices, etc.**

- (1) Any notice or other document required or authorised by this Part of this Act to be given or sent to any person shall be sent by post in a registered letter addressed—
  - (a) to the said person ; or
  - (b) where the said person is a landlord or an intermediate landlord, either to him or to the person to whom the rent under the lease or sub-lease, as the case may be, is in use to be paid; or
  - (c) where the said person, being an intermediate landlord, is unknown or cannot be found and no rent is being paid under the sub-lease, to the Extractor of the Court of Session ; or
  - (d) where the said person is a local authority, development corporation; or an incorporated company or body, to the clerk, secretary or other proper officer of such authority, corporation, company or body.

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*Status: This is the original version (as it was originally enacted).*

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- (2) For the purposes of this section, the proper address of any person to whom any such notice or document is to be given or sent shall, in the case of the clerk, secretary or other proper officer of a local authority, development corporation, or an incorporated company or body, be that of the principal or registered office of such authority, corporation, company or body, and in any other case shall be the last known address of the person in question.
- (3) A copy of any such notice or document bearing a certificate of the due posting thereof signed by the person giving the notice or sending the document or by his solicitor, together with a post office receipt for the registered letter containing the notice or document, shall be sufficient evidence that the notice was duly given or that the document was duly sent, as the case may be, to the person to whom such registered letter was addressed at the address specified therein on the date mentioned in such receipt, which date shall be deemed to be the date of the notice or of the sending of the document, as the case may be.
- (4) Any such notice or document shall be effectually given or sent notwithstanding that the person to whom it is required or authorised to be given or sent is in pupilarity or minority or otherwise subject to any legal incapacity at the date of the notice or at the date of the sending of the document, as the case may be.

#### **24 Provisions regarding heirs of entail, etc.**

It shall be lawful for all heirs of entail, trustees, judicial factors, tutors and curators, notwithstanding any limitations in their titles, to exercise all powers conferred by this Part of this Act and to execute, register and carry into effect all deeds required to render such powers fully operative, and such deeds shall be binding upon all persons whomsoever interested in the property to which such deeds relate.