



## 2001 CHAPTER 5

### *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).

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(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;

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(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);

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“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.

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(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)—

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- (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.

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(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.

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