
STATUTORY INSTRUMENTS

1997 No. 1179

The Property (Northern Ireland) Order 1997

PART III

FREEHOLD COVENANTS AND CERTAIN LEASES

Leases

Enlargement of leasehold estate subject to no rent

35.—(1) Subject to paragraph (2), this Article applies to a leasehold estate (whether or not the immediate reversion on that estate is the freehold) where—

- (a) the unexpired residue of the term of the lease is more than 50 years; and
- (b) no rent is incident to the reversion.

(2) This Article does not apply at a time when—

- (a) the land held under the lease is used wholly for business purposes; or
- (b) the lessee is prohibited by or under the lease 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) Whether or not a leasehold estate to which this Article applies is subject to an incumbrance, the lessee may by deed (“the deed of declaration”) declare to the effect that the leasehold estate is enlarged into an estate in fee simple (“the fee simple estate”) and may make application to the Registrar for registration of his title to the fee simple estate.

(5) On an application under paragraph (4)—

- (a) if the leasehold estate is registered, section 27 of the Land Registration Act applies (the references in that section to the leasehold estate’s being converted or having not been converted being read as including references to that estate’s being or having not been the subject of a deed of declaration under paragraph (4));
- (b) if the leasehold estate is not registered and the application is made in accordance with rules, the Registrar may register the lessee’s title to the fee simple estate in accordance with the deed of declaration with such class of title as appears to him to be appropriate (and, until the lessee’s title to the fee simple estate is so registered, the deed of declaration has no effect);

and (notwithstanding any caution or inhibition) the Registrar may make in the register such consequential entries, changes, cancellations or (without prejudice to paragraph (7)) notes as appear to him appropriate.

(6) Upon registration of the title to the fee simple estate—

- (a) that estate of the class shown in the register becomes vested in the lessee; and

(b) the reversion expectant upon the lessee's leasehold estate, and the reversion expectant upon any leasehold estate superior to the lessee's estate, is extinguished (without prejudice to any rights of any reversioner in respect of land other than the land held for the leasehold estate to which this Article applies).

(7) Except where the Registrar is satisfied that the land held for a leasehold estate to which this Article applies was subject to no superior rent (other than a nominal rent, that is to say, a rent of a yearly amount of £1 or less, or a peppercorn or other rent having no money value) on the date of execution of the deed of declaration, the Registrar shall enter on the register a note to the effect that the fee simple estate is subject to a rentcharge of so much (if any) of any superior rent as would have been redeemed by virtue of Article 18(1) if a ground rent to which the land was subject had been redeemed under Article 5 on that date; and such a note may be discharged in accordance with rules, and it is sufficient to satisfy the Registrar as to the matter mentioned at the beginning of this paragraph that he is furnished by a solicitor with a certificate to that effect,

(8) The fee simple estate is subject to Article 20(7) to (10) and Articles 23 to 26 as if the leasehold estate had yielded a rent which had been redeemed (and the leasehold estate consequently enlarged into a fee simple) under Part II; and, accordingly, for the purposes of this Article those Articles shall be read with the necessary modifications.

(9) Where land held for a leasehold estate has been mortgaged by sub-demise or an assignment of the lease and the right of redemption has become barred, the mortgagee may exercise the right of a lessee under this Article, if the requirements of this Article are otherwise satisfied.

(10) This Article does not apply to a leasehold estate created by way of mortgage.