Leasehold Reform Act 1967

1967 CHAPTER 88

PART I

ENFRANCHISEMENT AND EXTENSION OF LONG LEASEHOLDS

Modifications etc. (not altering text)

C1 Pt. I (ss. 1–37) excluded by Housing Act 1985 (c. 68, SIF 61), **ss. 172**, 173

C2 Pt. I (ss. 1–37) extended by Housing Act 1985 (c. 68, SIF 61), **s. 174**
Pt. I (ss. 1-37) modified (1.4.1997) by 1985 c. 68, **s. 174** (as inserted (1.4.1997) by S.I. 1997/619, reg. 2(1), **Sch. 1 para. 29**)

C3 Pt. I extended by Land Compensation Act 1973 (c. 26), **s. 12(1)**

Right to enfranchisement or extension

1 Tenants entitled to enfranchisement or extension.

(1) This Part of this Act shall have effect to confer on a tenant of a leasehold house [F1]. . . a right to acquire on fair terms the freehold or an extended lease of the house and premises where—

[[F2](a) his tenancy is a long tenancy at a low rent and,—

(i) if the tenancy was entered into before 1st April 1990 **[**[F3], or on or after 1st April 1990 in pursuance of a contract made before that date, and the house and premises had a rateable value at the date of commencement of the tenancy or else at any time before 1st April 1990,**]** subject to subsections (5) and (6) below, the rateable value of the house and premises on the appropriate day was not more than £200 or, if it is in Greater London, than £400; and

(ii) if the tenancy **[**[F3]does not fall within sub-paragraph (i) above,**]** on the date the contract for the grant of the tenancy was made or, if there was no such contract, on the date the tenancy was entered into R did not exceed £25,000 under the formula—

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$$R = \frac{P \times I}{1-(1+I)^{-T}}$$

where—

P is the premium payable as a condition of the grant of the tenancy (and includes a payment of money's worth) or, where no premium is so payable, zero,

I is 0.06, and

T is the term, expressed in years, granted by the tenancy (disregarding any right to terminate the tenancy before the end of the term or to extend the tenancy); and**]**

(b) at the relevant time (that is to say, at the time when he gives notice in accordance with this Act of his desire to have the freehold or to have an extended lease, as the case may be) he has been tenant of the house under a long tenancy at a low rent [F1]. . . for the last **[**[F4]two years**]** ;

and to confer the like right in the other cases for which provision is made in this Part of this Act.

[[F5](1ZA) Where a house is for the time being let under two or more tenancies, a tenant under any of those tenancies which is superior to that held by any tenant on whom this Part of this Act confers a right does not have any right under this Part of this Act.

(1ZB) Where a flat forming part of a house is let to a person who is a qualifying tenant of the flat for the purposes of Chapter 1 or 2 of Part 1 of the Leasehold Reform, Housing and Urban Development Act 1993 (c. 28), a tenant of the house does not have any right under this Part of this Act unless, at the relevant time, he has been occupying the house, or any part of it, as his only or main residence (whether or not he has been using it for other purposes)—

(a) for the last two years; or

(b) for periods amounting to two years in the last ten years.**]**

[[F6](1ZC) The references in subsection (1)(a) and (b) to a long tenancy do not include a tenancy to which Part 2 of the Landlord and Tenant Act 1954 (business tenancies) applies unless—

(a) it is granted for a term of years certain exceeding thirty-five years, whether or not it is (or may become) terminable before the end of that term by notice given by or to the tenant or by re-entry, forfeiture or otherwise,

(b) it is for a term fixed by law under a grant with a covenant or obligation for perpetual renewal, unless it is a tenancy by sub-demise from one which is not a tenancy which falls within any of the paragraphs in this subsection,

(c) it is a tenancy taking effect under section 149(6) of the Law of Property Act 1925 (c. 20) (leases terminable after a death or marriage), or

(d) it is a tenancy which—

(i) is or has been granted for a term of years certain not exceeding thirty-five years, but with a covenant or obligation for renewal without payment of a premium (but not for perpetual renewal), and

(ii) is or has been once or more renewed so as to bring to more than thirty-five years the total of the terms granted (including any interval between the end of a tenancy and the grant of a renewal).

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(1ZD) Where this Part of this Act applies as if there were a single tenancy of property comprised in two or more separate tenancies, then, if each of the separate tenancies falls within any of the paragraphs of subsection (1ZC) above, that subsection shall apply as if the single tenancy did so.**]**

[[F7](1A) The references in subsection (1)(*a*) and (*b*) to a long tenancy at a low rent do not include a tenancy excluded from the operation of this Part by section 33A of and Schedule 4A to this Act.**]**

[[F8](1B) This Part of this Act shall not have effect to confer any right on the tenant of a house under a tenancy to which Part 2 of the Landlord and Tenant Act 1954 (c. 56) (business tenancies) applies unless, at the relevant time, the tenant has been occupying the house, or any part of it, as his only or main residence (whether or not he has been using it for other purposes)—

(a) for the last two years; or

(b) for periods amounting to two years in the last ten years.**]**

(2) . . . . . .

(3) This Part of this Act shall not confer on the tenant of a house any right by reference to his **[**[F9]being a tenant of it**]** at any time when—

(a) it is let to [F10]. . . him with other land or premises to which it is ancillary; or

[[F11](b) it is comprised in—

(i) an agricultural holding within the meaning of the Agricultural Holdings Act 1986 held under a tenancy in relation to which that Act applies, or

(ii) the holding held under a farm business tenancy within the meaning of the Agricultural Tenancies Act 1995**]**

[[F12]or, in the case of any right to which subsection (3A) below applies, at any time when the tenant's immediate landlord is a charitable housing trust and the house forms part of the housing accommodation provided by the trust in the pursuit of its charitable purposes.**]**

[[F13](3A) For the purposes of subsection (3) above this subsection applies as follows—

(a) where the tenancy was created after the commencement of Chapter III of Part I of the Leasehold Reform, Housing and Urban Development Act 1993, this subsection applies to any right to acquire the freehold of the house and premises; but

(b) where the tenancy was created before that commencement, this subsection applies only to any such right exercisable by virtue of any one or more of the provisions of sections 1A **[**[F14], 1AA**]]** and 1B below;

and in that subsection "charitable housing trust" means a housing trust within the meaning of the Housing Act 1985 which is a charity within the meaning of the Charities Act 1993.

(4) In subsection (1)(a) above, "the appropriate day", in relation to any house and premises, means the 23rd March 1965 or such later day as by virtue of **[**[F15]section 25(3) of the [M1]Rent Act 1977**]** would be the appropriate day for purposes of that Act in relation to a dwelling house consisting of that house.

[[F16](4A) Schedule 8 to the [M2]Housing Act 1974 shall have effect to enable a tenant to have the rateable value of the house and premises reduced for purposes of this section in consequence of tenant's improvements.**]**

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[[F17](5) If, in relation to any house and premises, the appropriate day for the purposes of subsection (1)(a) above falls on or after 1st April 1973 that subsection shall have effect in relation to the house and premises,—

(a) in a case where the tenancy was created on or before 18th February 1966, as if for the sums of £200 and £400 specified in that subsection there were substituted respectively the sums of £750 and £1,500; and

(b) in a case where the tenancy was created after 18th February 1966, as if for those sums of £200 and £400 there were substituted respectively the sums of £500 and £1,000.

(6) If, in relation to any house and premises,—

(a) the appropriate day for the purposes of subsection (1)(a) above falls before 1st April 1973, and

(b) the rateable value of the house and premises on the appropriate day was more than £200 or, if it was then in Greater London, £400, and

(c) the tenancy was created on or before 18th February 1966,

subsection (1)(a) above shall have effect in relation to the house and premises as if for the reference to the appropriate day there were substituted a reference to 1st April 1973 and as if for the sums of £200 and £400 specified in that subsection there were substituted respectively the sums of £750 and £1,500.**]**

[[F18](7) The Secretary of State may by order replace the amount referred to in subsection (1)(a)(ii) above and the number in the definition of "I" in that subsection by such amount or number as is specified in the order; and such an order shall be made by statutory instrument which shall be subject to annulment in pursuance of a resolution of either House of Parliament.**]**

Textual Amendments

F1 Words in s. 1(1) repealed (26.7.2002 for E. and 1.1.2003 for W.) by 2002 c. 15, ss. 138(1), 180, **Sch. 14**; S.I. 2002/1912, art. 2(b)(ii), **Sch. 1 Pt. 3** (subject to transitional provisions and savings in Sch. 2 of the commencing S.I.); S.I. 2002/3012, art. 2(b), **Sch. 1 Pt. 3** (subject to transitional provisions and savings in Sch. 2 of the commencing S.I.)

F2 S. 1(1)(a) substituted by S.I. 1990/434, reg. 2, **Sch. para. 5** (as amended by S.I. 1990/701, **reg. 2**)

F3 Words in s. 1(1)(a)(i)(ii) substituted (1.10.1996) by 1996 c. 52, **s. 114**; S.I. 1996/2212, arts. 1(2), 2(2), **Sch.**

F4 Words in s. 1(1)(b) substituted (26.7.2002 for E. and 1.1.2003 for W.) by 2002 c. 15, **s. 139(1)**; S.I. 2002/1912, **art. 2(b)(i)** (subject to transitional provisions and savings in Sch. 2 of the commencing S.I.); S.I. 2002/3012, **art. 2(b)(i)** (subject to transitional provions and savings in Sch. 2 of the commencing S.I.)

F5 S. 1(1ZA)(1ZB) inserted (26.7.2002 for E. and 1.1.2003 for W.) by 2002 c. 15, **s. 138(2)**; S.I. 2002/1912, **art. 2(b)(i)** (subject to transitional provisions and savings in Sch. 2 of the commencing S.I.); S.I. 2002/3012, **art. 2(b)(i)** (subject to transitional provisions and savings in Sch. 2 of the commencing S.I.)

F6 S. 1(1ZC)(1ZD) inserted (26.7.2002 for E. and 1.1.2003 for W.) by 2002 c. 15, **s. 140**; S.I. 2002/1912, **art. 2(b)(i)** (subject to transitional provisions and savings in Sch. 2 of the commencing S.I.); S.I. 2002/3012, **art. 2(b)(i)** (subject to transitional provisions and savings in Sch. 2 of the commencing S.I.)

F7 S. 1(1A) inserted by Housing and Planning Act 1986 (c. 63, SIF 75:1), s. 18, **Sch. 4 para. 3**

F8 S. 1(1B) inserted (26.7.2002 for E. and 1.1.2003 for W.) by 2002 c. 15, **s. 139(2)**; S.I. 2002/1912, **art. 2(b)(i)** (subject to transitional provisions and savings in Sch. 2 of the commencing S.I.); S.I.

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2002/3012, **art. 2(b)(i)** (subject to transitional provisions and savings in Sch. 2 of the commencing S.I.)

F9 Words in s. 1(3) substituted (26.7.2002 for E. and 1.1.2003 for W.) by 2002 c. 15, **s. 138(3)**; S.I. 2002/1912, **art. 2(b)(i)** (subject to transitional provisions and savings in Sch. 2 of the commencing S.I.); S.I. 2002/3012, **art. 2(b)(i)** (subject to transitional provisions and savings in Sch. 2 of the commencing S.I.)

F10 Words in s. 1(3)(a) repealed (26.7.2002 for E. and 1.1.2003 for W.) by 2002 c. 15, s. 180, **Sch. 14**; S.I. 2002/1912, art. 2(b)(ii), **Sch. 1 Pt. 3** (subject to transitional provisions and savings in Sch. 2 of the commencing S.I.); S.I. 2002/3012, art. 2(b)(ii), **Sch. 1 Pt. 3** (subject to transitional provisions and savings in Sch. 2 of the commencing S.I.)

F11 S. 1(3)(b) substituted (1.9.1995) by 1995 c. 8, ss. 40, 41(2), **Sch. para. 22** (with s. 37)

F12 Words in s. 1(3) added (1.11.1993) by 1993 c. 28, **s. 67(2)**; S.I. 1993/2134, **art 5(b)** (subject to arts. 4, 5, Sch. 1 para. 1)

F13 S. 1(3A) inserted (1.11.1993) by 1993 c. 28, **s. 67(3)**; S.I. 1993/2134, **art 5(b)** (subject to arts. 4, 5, Sch. 1 para. 1)

F14 Words in S. 1(3A)(b) inserted (1.4.1997) by 1996 c. 52, ss. 106, **Sch. 9 para. 2(1)(2)**; S.I. 1997/618, **art. 2(1)** (with Sch.)

F15 Words substituted by Rent Act 1977 (c. 42), s. 155(2), **Sch. 23 para. 42**

F16 S. 1(4A) substituted by Housing Act 1980 (c. 51), **Sch. 21 para. 2**

F17 S. 1(5)(6) added by Housing Act 1974 (c. 44), **s. 118(1)(5)**

F18 S. 1(7) inserted by S.I. 1990/434, reg. 2, **Sch. para. 6**

Marginal Citations

M1 1977 c. 42.

M2 1974 c. 44.

[F19 1A Right to enfranchisement only in case of houses whose value or rent exceeds limit under s.1 or 4.

(1) Where subsection (1) of section 1 above would apply in the case of the tenant of a house but for the fact that the applicable financial limit specified in subsection (1)(a)(i) or (ii) or (as the case may be) subsection (5) or (6) of that section is exceeded, this Part of this Act shall have effect to confer on the tenant the same right to acquire the freehold of the house and premises as would be conferred by subsection (1) of that section if that limit were not exceeded.

(2) Where a tenancy of any property is not a tenancy at a low rent in accordance with section 4(1) below but is a tenancy falling within section 4A(1) below, the tenancy shall nevertheless be treated as a tenancy at a low rent for the purposes of this Part of this Act so far as it has effect for conferring on any person a right to acquire the freehold of a house and premises.**]**

Textual Amendments

F19 S. 1A inserted (1.11.1993) by 1993 c. 28, **s. 63**; S.I. 1993/2134, **art. 5(a)**

[F20 1AA Additional right to enfranchisement only in case of houses whose rent exceeds applicable limit under section 4.

(1) Where—

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(a) section 1(1) above would apply in the case of the tenant of a house but for the fact that the tenancy is not a tenancy at a low rent, and

(b) the tenancy [F21]. . . is not an excluded tenancy,

this Part of this Act shall have effect to confer on the tenant the same right to acquire the freehold of the house and premises as would be conferred by section 1(1) above if it were a tenancy at a low rent.

[F22](2) . . . . . .

(3) A tenancy is an excluded tenancy for the purposes of subsection (1) above if—

(a) the house which the tenant occupies under the tenancy is in an area designated for the purposes of this provision as a rural area by order made by the Secretary of State,

(b) the freehold of that house is owned together with adjoining land which is not occupied for residential purposes and has been owned together with such land since **[**[F23]1st April 1997 (the date on which section 106 of the Housing Act 1996 came into force)**]**, and

[[F24](c) the tenancy either—

(i) was granted on or before that date, or

(ii) was granted after that date, but on or before the coming into force of section 141 of the Commonhold and Leasehold Reform Act 2002, for a term of years certain not exceeding thirty-five years.**]**

(4) Where this Part of this Act applies as if there were a single tenancy of property comprised in two or more separate tenancies, then, if each of the separate tenancies falls within subsection (2) above, this section shall apply as if the single tenancy did so.

(5) The power to make an order under subsection (3) above shall be exercisable by statutory instrument which shall be subject to annulment in pursuance of a resolution of either House of Parliament.**]**

Textual Amendments

F20 S. 1AA inserted (1.4.1997) by 1996 c. 52, s. 106, **Sch. 9 para. 1**; S.I. 1997/618, **art. 2(1)** (with Sch.)

F21 Words in s. 1AA(1)(b) repealed (26.7.2002 for E. and 1.1.2003 for W.) by 2002 c. 15, ss. 141(2)(a), 180, **Sch. 14**; S.I. 2002/1912, art. 2(b), **Sch. 1 Pt. 3** (subject to transitional provisions and savings in Sch. 2 of the commencing S.I.); S.I. 2002/3012, art. 2(b), **Sch. 1 Pt. 3** (subject to transitional provisions and savings in Sch. 2 of the commencing S.I.)

F22 S. 1AA(2) repealed (26.7.2002 for E. and 1.1.2003 for W.) by 2002 c. 15, ss. 141(2)(b), 180, **Sch. 14**; S.I. 2002/1912, art. 2(b), **Sch. 1 Pt. 3** (subject to transitional provisions and savings in Sch. 2 of the commencing S.I.); S.I. 2002/3012, art. 2(b), **Sch. 1 Pt. 3** (subject to transitional provisions and savings in Sch. 2 of the commencing S.I.)

F23 Words in s. 1AA(3)(b) substituted (26.7.2002 for E. and 1.1.2003 for W.) by 2002 c. 15, **s. 141(3)(a)**; S.I. 2002/1912, **art. 2(b)(i)** (subject to transitional provisions and savings in Sch. 2 of the commencing S.I.); S.I. 2002/3012, **art. 2(b)(i)** (subject to transitional provisions and savings in Sch. 2 of the commencing S.I.)

F24 S. 1AA(3)(c) substituted (26.7.2002 for E. and 1.1.2003 for W.) by 2002 c. 15, **s. 141(3)(b)**; S.I. 2002/1912, **art. 2(b)(i)** (subject to transitional provisions and savings in Sch. 2 of the commencing S.I.); S.I. 2002/3012, **art. 2(b)(i)** (subject to transitional provisions and savings in Sch. 2 of the commencing S.I.)

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[1B [F25]Right to enfranchisement only in case of certain tenancies terminable after death or marriage.

Where a tenancy granted so as to become terminable by notice after a death or marriage—

(a) is (apart from this section) a long tenancy in accordance with section 3(1) below, but

(b) was granted before 18th April 1980 or in pursuance of a contract entered into before that date,

then (notwithstanding section 3(1)) the tenancy shall be a long tenancy for the purposes of this Part of this Act only so far as this Part has effect for conferring on any person a right to acquire the freehold of a house and premises.**]**

Textual Amendments

F25 S. 1B inserted (1.11.1993) by 1993 c. 28, **s. 64(1)**; S.I. 1993/2134, **art 5(a)**

2 Meaning of "house" and "houses and premises", and adjustment of boundary.

(1) For purposes of this Part of this Act, "house" includes any building designed or adapted for living in and reasonably so called, notwithstanding that the building is not structurally detached, or was or is not solely designed or adapted for living in, or is divided horizontally into flats or maisonettes; and—

(a) where a building is divided horizontally, the flats or other units into which it is so divided are not separate "houses", though the building as a whole may be; and

(b) where a building is divided vertically the building as a whole is not a "house" though any of the units into which it is divided may be.

(2) References in this Part of this Act to a house do not apply to a house which is not structurally detached and of which a material part lies above or below a part of the structure not comprised in the house.

(3) Subject to the following provisions of this section, where in relation to a house let to [F26]. . . a tenant reference is made in this Part of this Act to the house and premises, the reference to premises is to be taken as referring to any garage, outhouse, garden, yard and appurtenances which at the relevant time are let to him with the house [F26]. . ..

(4) In relation to the exercise by a tenant of any right conferred by this Part of this Act there shall be treated as included in the house and premises any other premises let with the house and premises but not at the relevant time **[**[F27]subject to a tenancy vested in him**]**(whether in consequence of an assignment of the term therein [F26]. . . or otherwise), if—

(a) the landlord at the relevant time has an interest in the other premises and, not later than two months after the relevant time, gives to the tenant written notice objecting to the further severance of them from the house and premises; and

(b) either the tenant agrees to their inclusion with the house and premises or the court is satisfied that it would be unreasonable to require the landlord to retain them without the house and premises.

(5) In relation to the exercise by a tenant of any right conferred by this Part of this Act there shall be treated as not included in the house and premises any part of them which lies

above or below other premises (not consisting only of underlying mines or minerals), if—

(a) the landlord at the relevant time has an interest in the other premises and, not later than two months after the relevant time, gives to the tenant written notice objecting to the further severance from them of that part of the house and premises; and

(b) either the tenant agrees to the exclusion of that part of the house and premises or the court is satisfied that any hardship or inconvenience likely to result to the tenant from the exclusion, when account is taken of anything that can be done to mitigate its effects and of any undertaking of the landlord to take steps to mitigate them, is outweighed by the difficulties involved in the further severance from the other premises and any hardship or inconvenience likely to result from that severance to persons interested in those premises.

(6) The rights conferred on a tenant by this Part of this Act in relation to any house and premises shall not extend to underlying minerals comprised in the tenancy if the landlord requires that the minerals be excepted, and if proper provision is made for the support of the house and premises as they have been enjoyed during the tenancy and in accordance with its terms.

(7) Where by virtue of subsection (4) above a tenant of a house acquiring the freehold or an extended lease is required to include premises of which the tenancy is not vested in him, this Part of this Act shall apply for the purpose as if in the case of those premises a tenancy on identical terms were vested in him and the holder of the actual tenancy were a sub-tenant; and where by virtue of subsection (5) or (6) above a tenant of a house acquiring the freehold or an extended lease is required to exclude property of which the tenancy is vested in him, then unless the landlord and the tenant otherwise agree or the court for the protection of either of them from hardship or inconvenience otherwise orders, the grant to the tenant shall operate as a surrender of the tenancy in that property and the provision to be made by the grant shall be determined as if the surrender had taken place before the relevant time.

Textual Amendments

F26 Words in s. 2(3)(4) repealed (26.7.2002 for E. and 1.1.2003 for W.) by 2002 c. 15, s. 180, **Sch. 14**; S.I. 2002/1912, art. 2(b)(ii), **Sch. 1 Pt. 3** (subject to transitional provisions and savings in Sch. 2 of the commencing S.I.); S.I. 2002/3012, art. 2(b)(ii), **Sch. 1 Pt. 3** (subject to transitional provisions and savings in Sch. 2 of the commencing S.I.)

F27 Words in s. 2(4) substituted (26.7.2002 for E. and 1.1.2003 for W.) by 2002 c. 15, **s. 138(4)**, S.I. 2002/1912, art. 2(b)(i) (subject to transitional provisions and savings in Sch. 2 of the commencing S.I.); S.I. 2002/3012, **art. 2(b)(i)** (subject to transitional provisions and savings in Sch. 2 of the commencing S.I.)

3 Meaning of "long tenancy".

(1) In this Part of this Act "long tenancy" means, subject to the provisions of this section, a tenancy granted for a term of years certain exceeding twenty-one years, whether or not the tenancy is (or may become) terminable before the end of that term by notice given by or to the tenant or by re-entry, forfeiture or otherwise, and includes **[**[F28]both a tenancy taking effect under section 149(6) of the Law of Property Act 1925 (leases terminable after a death or marriage) and**]** a tenancy for a term fixed by law under a

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grant with a covenant or obligation for perpetual renewal unless it is a tenancy by sub-demise from one which is not a long tenancy:

Provided that a tenancy granted so as to become terminable by notice after a death or marriage is not to be treated as a long tenancy **[**[F29]if—

(a) the notice is capable of being given at any time after the death or marriage of the tenant;

(b) the length of the notice is not more than three months; and

(c) the terms of the tenancy preclude both—

(i) its assignment otherwise than by virtue of section 92 of the Housing Act 1985 (assignments by way of exchange), and

(ii) the sub-letting of the whole of the premises comprised in it.**]**

(2) Where the tenant of any property under a long tenancy at a low rent **[**[F30](other than a lease excluded from the operation of this Part by section 33A of and Schedule 4A to this Act)**]** , on the coming to an end of that tenancy, becomes or has become tenant of the property or part of it under another tenancy (whether by express grant or by implication of law), then the later tenancy shall be deemed for the purposes of this Part of this Act, including any further application of this subsection, to be a long tenancy irrespective of its terms.

(3) Where the tenant of any property under a long tenancy, on the coming to an end of that tenancy, becomes or has become tenant of the property or part of it under another long tenancy, then in relation to the property or that part of it this Part of this Act [F31]. . . shall apply as if there had been a single tenancy granted for a term beginning at the same time as the term under the earlier tenancy and expiring at the same time as the term under the later tenancy.

(4) Where a tenancy is or has been granted for a term of years certain not exceeding twenty-one years, but with a covenant or obligation for renewal without payment of a premium (but not for perpetual renewal), and the tenancy is or has been once or more renewed so as to bring to more than twenty-one years the total of the terms granted (including any interval between the end of a tenancy and the grant of a renewal), then this Part of this Act shall apply as it would apply if the term originally granted had been one exceeding twenty-one years.

(5) References in this Part of this Act to a long tenancy include any period during which the tenancy is or was continued under Part I or II of the [M3]Landlord and Tenant Act 1954 **[**[F32]under Schedule 10 to the Local Government and Housing Act 1989**]** or under the [M4]Leasehold Property (Temporary Provisions) Act 1951.

(6) Where at any time there are separate tenancies, with the same landlord and the same tenant, of two or more parts of a house, or of a house or part of it and land or other premises occupied therewith, then in relation to the property comprised in such of those tenancies as are long tenancies this Part of this Act shall apply as it would if at that time there were a single tenancy of that property and the tenancy were a long tenancy, and for that purpose references in this Part of this Act to the commencement of the term or to the term date shall, if the separate tenancies commenced at different dates or have different term dates, have effect as references to the commencement or term date, as the case may be, of the tenancy comprising the house (or the earliest commencement or earliest term date of the tenancies comprising it):

Provided that this subsection shall have effect subject to the operation of subsections (2) to (5) above in relation to any of the separate tenancies.

Textual Amendments

F28 Words in s. 3(1) inserted (1.11.1993) by 1993 c. 28, **s. 64(2)(a)**; S.I. 1993/2134, **art. 5(a)**

F29 Word and 3(1)(a)-(c) substituted (1.11.1993) by 1993 c. 28, **s. 64(2)(b)**; S.I. 1993/2134, **art. 5(a)**

F30 Words inserted by Housing and Planning Act 1986 (c. 63, SIF 75:1), s. 18, **Sch. 4 para. 4**

F31 Words in s. 3(3) repealed (26.7.2002 for E. and 1.1.2003 for W.) by 2002 c. 15, s. 180, **Sch. 14**; S.I. 2002/1912, art. 2(b)(ii), **Sch. 1 Pt. 3** (subject to transitional provisions and savings in Sch. 2 of the commencing S.I.); S.I. 2002/3012, art. 2(b)(ii), **Sch. 1 Pt. 3** (subject to transitional provisions and savings in Sch. 2 of the commencing S.I.)

F32 Words inserted by Local Government and Housing Act 1989 (c. 42, SIF 75:1), s. 194(1), **Sch. 11 para. 8**

Marginal Citations

M3 1954 c. 56.

M4 1951 c. 38.

4 Meaning of "low rent".

(1) For purposes of this Part of this Act a tenancy of any property is a tenancy at a low rent at any time when rent is not payable under the tenancy in respect of the property at a yearly rate

[[F33](i) if the tenancy was entered into before 1st April 1990 **[**[F34], or on or after 1st April 1990 in pursuance of a contract made before that date, and the property had a rateable value other than nil at the date of the commencement of the tenancy or else at any time before 1st April 1990,**]]** equal to or more than two-thirds of the rateable value of the property on the appropriate day or, if later, the first day of the term

[[F35](ii) if the tenancy **[**[F36]does not fall within paragraph (i) above,**]** more than £1,000 if the property is in Greater London and £250 if the property is elsewhere**]**:

Provided that a tenancy granted between the end of August 1939 and the beginning of April 1963 otherwise than by way of building lease (whether or not it is, by virtue of section 3(3) above, to be treated for other purposes as forming a single tenancy with a previous tenancy) shall not be regarded as a tenancy at a low rent if at the commencement of the tenancy the rent payable under the tenancy exceeded two-thirds of the letting value of the property (on the same terms).

For the purposes of this subsection—

(a) "appropriate day" means the 23rd March 1965 or such later day as by virtue of **[**[F37]section 25(3) of the [M5]Rent Act 1977**]** would be the appropriate day for purposes of that Act in relation to a dwelling-house consisting of the house in question **[**[F38]if the reference in paragraph (a) of that provision to a rateable value were to a rateable value other than nil**]**; and

(b) "rent" means rent reserved as such, and there shall be disregarded any part of the rent expressed to be payable in consideration of services to be provided, or of repairs, maintenance or insurance to be effected by the landlord, or to be payable in respect of the cost thereof to the landlord or a superior landlord; and

(c) there shall be disregarded any term of the tenancy providing for suspension or reduction of rent in the event of damage to property demised, or for any penal addition to the rent in the event of a contravention of or non-compliance with the terms of the tenancy or an agreement collateral thereto; and

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(d) "building lease" means a lease granted in pursuance or in consideration of an agreement for the erection or the substantial re-building or reconstruction of the whole or part of the house in question or a building comprising it.

(2) Where on a claim by the tenant of a house to exercise any right conferred by this Part of this Act a question arises under section 1(1) above whether his tenancy of the house is or was at any time a tenancy at a low rent, the question shall be determined by reference to the rent and rateable value of the house and premises as a whole, and in relation to a time before the relevant time shall be so determined whether or not the property then occupied with the house or any part of it was the same in all respects as that comprised in the house and premises for purposes of the claim; but, in a case where the tenancy derives (in accordance with section 3(6) above) from more than one separate tenancy, the proviso to subsection (1) above shall have effect if, but only if, it applies to one of the separate tenancies which comprises the house or part of it.

(3) Where on a claim by the tenant of a house to exercise any right conferred by this Part of this Act a question arises under section 3(2) above whether a tenancy is or was a long tenancy by reason of a previous tenancy having been a long tenancy at a low rent, the question whether the previous tenancy was one at a low rent shall be determined in accordance with subsection (2) above as if it were a question arising under section 1(1), and shall be so determined by reference to the rent and rateable value of the house and premises or the part included in the previous tenancy, exclusive of any other land or premises so included:

Provided that where an apportionment of rent or rateable value is required because the previous tenancy did not include the whole of the house and premises or included other property, the apportionment shall be made as at the end of the previous tenancy except in so far as, in the case of rent, an apportionment falls to be made at an earlier date under subsection (6) below.

(4) For purposes of subsection (2) or (3) above a house and premises shall be taken as not including any premises which are to be or may be included under section 2(4) above in giving effect to the tenant's claim, and as including any part which is to be or may be excluded under section 2(5) or (6).

(5) Where on a claim by the tenant of a house to exercise any right conferred by this Part of this Act a question arises whether a tenancy granted as mentioned in the proviso to subsection (1) above is or was at any time a tenancy at a low rent, it shall be presumed until the contrary is shown that the letting value referred to in that proviso was such that the proviso does not apply.

(6) Any entire rent payable at any time in respect of both a house and premises or part thereof and of property not included in the house and premises shall for purposes of this section be apportioned as may be just according to the circumstances existing at the date of the severance giving rise to the apportionment, and references in this section to the rent of a house and premises or of part thereof shall be construed accordingly.

[[F39](7) Section 1(7) above applies to any amount referred to in subsection (1)(ii) above as it applies to the amount referred to in subsection (1)(a)(ii) of that section.**]**

Textual Amendments

F33 Words inserted by S.I. 1990/434, reg. 2, **Sch. para. 7(a)**

F34 Words in s. 4(1)(i) substituted (1.10.1996) by 1996 c. 52, **s. 105(1)(a)**; S.I. 1996/2212, **arts. 1(2)**, 2(2) (with Sch.)

F35 S. 4(1)(ii) inserted by S.I. 1990/434, reg. 2, **Sch. para. 7(b)**

F36 Words in s. 4(1)(ii) substituted (1.10.1996) by 1996 c. 52, **s. 105(1)(b)**; S.I. 1996/2212, **arts. 1(2)**, 2(2) (with Sch.)

F37 Words substituted by Rent Act 1977 (c. 42), s. 155(2), **Sch. 23 para. 42**

F38 S. 4(1)(a): words in definition of
"appropriate day"
inserted (1.10.1996) by 1996 c. 52, **s. 105(1)(c)**; S.I. 1996/2212, **arts. 1(2)**, 2(2) (with Sch.)

F39 S. 4(7) inserted by S.I. 1990/434, reg. 2, **Sch. para. 8**

Modifications etc. (not altering text)

C4 S. 4(1) (proviso) applied (1.11.1993) by 1993 c. 28, **s. 8(3)**; S.I. 1993/2134, **art. 5(a)**

Marginal Citations

M5 1977 c. 42.

[F40 4A Alternative rent limits for purposes of section 1A(2).

(1) For the purposes of section 1A(2) above a tenancy of any property falls within this subsection if either no rent was payable under it in respect of the property during the initial year or the aggregate amount of rent so payable during that year did not exceed the following amount, namely—

(a) where the tenancy was entered into before 1st April 1963, two-thirds of the letting value of the property (on the same terms) on the date of the commencement of the tenancy;

(b) where—

(i) the tenancy was entered into either on or after 1st April 1963 but before 1st April 1990, or on or after 1st April 1990 in pursuance of a contract made before that date, and

F41 [(ii) the property had a rateable value other than nil at the date of commencement of the tenancy or else at any time before 1st April 1990,]

two-thirds of the rateable value of the property on the relevant date; or

(c) in any other case, £1,000 if the property is in Greater London or £250 if elsewhere.

(2) For the purposes of subsection (1) above—

(a) "the initial year", in relation to any tenancy, means the period of one year beginning with the date of the commencement of the tenancy;

F42 [(b) "the relevant date" means the date of the commencement of the tenancy or, if the property did not have a rateable value, or had a rateable value of nil, on that date, the date on which it first had a rateable value other than nil;]

(c) paragraphs (b) and (c) of section 4(1) above shall apply as they apply for the purposes of section 4(1);

and it is hereby declared that in subsection (1) above the reference to the letting value of any property is to be construed in like manner as the reference in similar terms which appears in the proviso to section 4(1) above.

(3) Section 1(7) above applies to any amount referred to in subsection (1)(c) above as it applies to the amount referred to in subsection (1)(a)(ii) of that section.]

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Textual Amendments

F40 S. 4A inserted (1.11.1993) by 1993 c. 28, **s. 65**; S.I. 1993/2134, **art. 5(a)**

F41 S. 4A(1)(b)(ii) substituted (1.10.1996) by 1996 c. 52, **s. 105(2)(a)**; S.I. 1996/2212, **arts. 1(2)**, 2(2) (with Sch.)

F42 S. 4A(2)(b) substituted (1.10.1996) by 1996 c. 52, **s. 105(2)(b)**; S.I. 1996/2212, **arts. 1(2)**, 2(2) (with Sch.)

5 General provisions as to claims to enfranchisement or extension.

(1) Where under this Part of this Act a tenant of a house has the right to acquire the freehold or an extended lease and gives notice of his desire to have it, the rights and obligations of the landlord and the tenant arising from the notice shall inure for the benefit of and be enforceable against them, their executors, administrators and assigns to the like extent (but no further) as rights and obligations arising under a contract for a sale or lease freely entered into between the landlord and tenant; and accordingly, in relation to matters arising out of any such notice, references in this Part of this Act to the tenant and the landlord shall, in so far as the context permits, include their respective executors, administrators and assigns.

(2) Notwithstanding anything in subsection (1) above, the rights and obligations there referred to of a tenant shall be assignable with, but not capable of subsisting apart from, the tenancy of the entire house and premises; and if the tenancy is assigned without the benefit of the notice, or if the tenancy of one part of the house and premises is assigned to or vests in any person without the tenancy of another part, the notice shall accordingly cease to have effect, and the tenant shall be liable to make such compensation as may be just to the landlord in respect of the interference (if any) by the notice with the exercise by the landlord of his power to dispose of or deal with the house and premises or any neighbouring property.

(3) In the event of any default by the landlord or the tenant in carrying out the obligations arising from any such notice, the other of them shall have the like rights and remedies as in the case of a contract freely entered into.

(4) The provisions of Schedule 1 to this Act shall have effect in relation to the operation of this Part of this Act where a person gives notice of his desire to have the freehold or an extended lease of a house and premises, and either he does so in respect of a sub-tenancy or there is a tenancy reversionary on his tenancy; but any such notice given in respect of a tenancy granted by sub-demise out of a superior tenancy other than a long tenancy at a low rent shall be of no effect if the grant was made in breach of the terms of the superior tenancy and there has been no waiver of the breach by the superior landlord.

(5) No lease shall be registrable under **[**[F43]the [M6]Land Charges Act 1972**]** or be deemed to be an estate contract within the meaning of that Act by reason of the rights conferred on the tenant by this Part of this Act to acquire the freehold or an extended lease of property thereby demised, nor shall any right of a tenant arising from a notice under this Act of his desire to have the freehold or to have an extended lease be an overriding interest within the meaning of the [M7]Land Registration Act 1925; but any such notice shall be registrable under **[**[F44]the [M8]Land Charges Act 1972**]** or may be the subject of a notice or caution under the Land Registration Act 1925, as if it were an estate contract.

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(6) A notice of a person's desire to have the freehold or an extended lease of a house and premises under this Part of this Act—

(a) shall be of no effect if at the relevant time any person or body of persons who has or have been, or could be, authorised to acquire the whole or part of the house and premises compulsorily for any purpose has or have, with a view to its acquisition for that purpose, served notice to treat on the landlord or on the tenant, or entered into a contract for the purchase of the interest of either of them, and the notice to treat or contract remains in force; and

(b) shall cease to have effect if before the completion of the conveyance in pursuance of the tenant's notice any such person or body of persons serves notice to treat as aforesaid;

but where a tenant's notice ceases to have effect by reason of a notice to treat served on him or on the landlord, then on the occasion of the compulsory acquisition in question the compensation payable in respect of any interest in the house and premises (whether or not the one to which that notice to treat relates) shall be determined on the basis of the value of the interest subject to and with the benefit of the rights and obligations arising from the tenant's notice and affecting that interest.

(7) Where any such notice given by a tenant entitled to acquire the freehold or an extended lease has effect, then (without prejudice to the general law as to the frustration of contracts) the landlord and all other persons shall be discharged from the further performance, so far as relates to the disposal in any manner of the landlord's interest in the house and premises or any part thereof, of any contract previously entered into and not providing for the eventuality of such a notice (including any such contract made in pursuance of the order of any court):

Provided that, in the case of a notice of the tenant's desire to have an extended lease, this subsection shall not apply to discharge a person from performance of a contract unless the contract was entered into on the basis, common to both parties, that vacant possession of the house and premises or part thereof would or might be obtainable on the termination of the existing tenancy.

(8) A tenant's notice of his desire to have an extended lease under this Part of this Act shall cease to have effect if afterwards (being entitled to do so) he gives notice of his desire to have the freehold.

Textual Amendments

F43 Words substituted by virtue of Land Charges Act 1972 (c. 61), **s. 18(6)**

F44 Words substituted by virtue of Land Charges Act 1972 (c. 61), **s. 18(6)**

Marginal Citations

M6 1972 c. 61.

M7 1925 c. 21.

M8 1972 c. 61.

6 Rights of trustees.

(1) **[**[F45]A tenant of a house shall for purposes of this Part of this Act be treated as having been a tenant of it at any earlier time**]** if at that time—

(a) the tenancy was settled land for purposes of the [M9]Settled Land Act 1925, and he was sole tenant for life within the meaning of that Act; or

(b) the tenancy was vested in trustees and he, as a person beneficially interested (whether directly or derivatively) under the trusts, was entitled or permitted to occupy the house by reason of that interest.

References in this section to trustees include persons holding on **[**[F46]a trust arising under section 34 or section 36**]** of the [M10]Law of Property Act 1925 in cases of joint ownership or ownership in common.

(2) Where a tenancy of a house is settled land for purposes of the Settled Land Act 1925, a sole tenant for life within the meaning of that Act shall have the same rights under this Part of this Act [F47]. . . as if the tenancy of it belonged to him absolutely, but without prejudice to his position under the settlement as a trustee for all parties entitled under the settlement; and—

(a) the powers under that Act of a tenant for life shall include power to accept an extended lease under this Part of this Act; and

(b) an extended lease granted under this Part of this Act to a tenant for life or statutory owner shall be treated as a subsidiary vesting deed in accordance with section 53(2) of that Act.

(3) Where a tenancy of a house is vested in trustees (other than a sole tenant for life within the meaning of the Settled Land Act 1925), and a person beneficially interested (whether directly or derivatively) under the trusts is entitled or permitted by reason of his interest to occupy the house, then the trustees shall have the like rights under this Part of this Act in respect of his occupation as he would have if he were the tenant occupying in right of the tenancy.

(4) Without prejudice to any powers exercisable under the Settled Land Act 1925 by tenants for life or statutory owners within the meaning of that Act, where a tenancy of a house is vested in trustees, then unless the instrument regulating the trusts (being made after the passing of this Act) contains an explicit direction to the contrary, the powers of the trustees under that instrument shall include power, with the like consent or on the like direction (if any) as may be required for the exercise of their powers (or ordinary powers) of investment, to acquire and retain the freehold or an extended lease under this Part of this Act.

(5) The purposes authorised for the application of capital money by section 73 of the [M11]Settled Land Act 1925,. . . and the purposes authorised by section 71 of the Settled Land Act 1925. . . as purposes for which moneys may be raised by mortgage, shall include the payment of any expenses incurred by a tenant for life [F47]. . .in or in connection with proceedings taken by him [F47]. . . by virtue of subsection (2) or (3) above.

Textual Amendments

F45 Words in s. 6(1) substituted (26.7.2002 E. and 1.1.2003 W.) by 2002 c. 15, **s. 138(5)**; S.I. 2002/1912, **art. 2(b)(i)** (subject to transitional provision in Sch. 2 of the commencing S.I); S.I. 2002/3012, **art. 2(b)(i)** (subject to transitional provision in Sch. 2 of the commencing S.I)

F46 Words in s. 6(1) substituted (1.1.1997) by 1996 c. 47, s. 25(1), **Sch. 3 para. 10(a)** (with ss. 24(2), 25(4)(5)); S.I. 1996/2974, **art. 2**

F47 Words in s. 6(2)(5) repealed (26.7.2002 E. and 1.1.2003 W.) by 2002 c. 15, s. 180, **Sch. 14**; S.I. 2002/1912, art. 2(b)(ii), **Sch. 1 Pt. 3** (subject to transitional provision in Sch. 2 of the commencing

S.I); S.I. 2002/3012, art. 2(b)(ii), **Sch. 1 Pt. 3** (subject to transitional provision in Sch. 2 of the commencing S.I)

Marginal Citations

M9 1925 c. 18.
M10 1925 c. 20.
M11 1925 c. 18.

[F48 6A Rights of personal representatives

(1) Where a tenant of a house dies and, immediately before his death, he had under this Part of this Act—

(a) the right to acquire the freehold, or

(b) the right to an extended lease,

the right is exercisable by his personal representatives while the tenancy is vested in them (but subject to subsection (2) below); and, accordingly, in such a case references in this Part of this Act to the tenant shall, in so far as the context permits, be to the personal representatives.

(2) The personal representatives of a tenant may not give notice of their desire to have the freehold or an extended lease by virtue of subsection (1) above later than two years after the grant of probate or letters of administration.**]**

Textual Amendments

F48 S. 6A inserted (26.7.2002 for E. and 1.1.2003 for W.) by 2002 c. 15, **s. 142(1)**; S.I. 2002/1912, **art. 2(a)** (subject to transitional provisions and savings in Sch. 2 of the commencing S.I.); S.I. 2002/3012, **art. 2(a)** (subject to transitional provisions and savings in Sch. 2 of the commencing S.I.)

7 Rights of members of family succeeding to tenancy on death.

(1) Where the tenant of a house dies F49. . . and on his death a member of his family resident in the house becomes tenant of it under the same tenancy, then for the purposes of any claim by that member of the family to acquire the freehold or an extended lease under this Part of this Act he shall be treated as having been the tenant F49. . . during any period when—

(a) he was resident in the house, and it was his only or main place of residence; F49and

F49(b) . . . . . .

(2) For purposes of this section—

(a) a member of a tenant's family on whom the tenancy devolves on the tenant's death by virtue of a testamentary disposition or the law of intestate succession shall, on the tenancy vesting in him, be treated as having become tenant on the death; and

(b) a member of a tenant's family who, on the tenant's death, acquires the tenancy by the appropriation of it in or towards satisfaction of any legacy, share in residue, debt or other share in or claim against the tenant's estate, or by the purchase of it on a sale made by the tenant's personal representatives in the

administration of the estate, shall be treated as a person on whom the tenancy devolved by direct bequest; and

(c) a person's interest in a tenancy as personal representative of a deceased tenant shall be disregarded, but references in paragraphs (a) and (b) above to a tenancy vesting in, or being acquired by, a member of a tenant's family shall apply also where, after the death of a member of the family, the tenancy vests in or is acquired by the personal representatives of that member.

(3) Where a tenancy of a house is settled land for purposes of the Settled Land Act 1925, and on the death of a tenant for life within the meaning of that Act a member of his family resident **[**[F50]in the house**]** becomes entitled to the tenancy in accordance with the settlement or by any appropriation by or purchase from the personal representatives in respect of the settled land, this section shall apply as if the tenancy had belonged to the tenant for life absolutely and the trusts of the settlement taking effect after his death had been trusts of his will.

(4) Where in a case not falling within subsection (3) above a tenancy of a house is held on trust and—

(a) a person beneficially interested (whether directly or derivatively) under the trust is entitled or permitted by reason of his interest to occupy the house; and

(b) on his death a member of his family resident **[**[F50]in the house**]** becomes tenant of the house in accordance with the terms of the trust or by any appropriation by or purchase from the trustees;

then this section shall apply as if the deceased person [F49]. . . had been tenant of it [F49]. . . and as if after his death the trustees had held and dealt with the tenancy as his executors (the remaining trusts being trusts of his will).

(5) Subsections (3) and (4) above shall apply, with any necessary adaptations, where a person becomes entitled to a tenancy on the termination of a settlement or trust as they would apply if he had become entitled in accordance with the settlement or trust.

[F51](6) . . . . . .

(7) For purposes of this section a person is a member of another's family if that person is—

(a) the other's wife or husband; or

(b) a son or daughter or a son-in-law or daughter-in-law of the other, or of the other's wife or husband; or

(c) the father or mother of the other, or of the other's wife or husband.

In paragraph (b) above any reference to a person's son or daughter includes a reference to any stepson or stepdaughter, any illegitimate son or daughter, . . . [F52] of that person, and "son-in-law" and "daughter-in-law" shall be construed accordingly.

(8) In Schedule 2 to the [M12]Intestates' Estates Act 1952 (which gives a surviving spouse a right to require the deceased's interest in the matrimonial home to be appropriated to the survivor's interest in the deceased's estate, but by paragraph 1(2) excludes tenancies terminating, or terminable by the landlord, within two years of the death), paragraph 1(2) shall not apply to a tenancy if—

(a) the surviving wife or husband would in consequence of an appropriation in accordance with that paragraph become entitled by virtue of this section to acquire the freehold or an extended lease under this Part of this Act, either immediately on the appropriation or before the tenancy can determine or be determined as mentioned in paragraph 1(2); or

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(b) the deceased husband or wife, being entitled to acquire the freehold or an extended lease under this Part of this Act, had given notice of his or her desire to have it and the benefit of that notice is appropriated with the tenancy.

(9) This section shall have effect in relation to deaths occurring before this Act was passed as it has effect in relation to deaths occurring after.

Textual Amendments

F49 Words in s. 7(1)(b)(4) repealed (26.7.2002 for E. and 1.1.2003 for W.) by 2002 c. 15, s. 180, **Sch. 14**; S.I. 2002/1912, art. 2(b)(ii), **Sch. 1 Pt. 3** (subject to transitional provisions and savings in Sch. 2 of the commencing S.I.); S.I. 2002/3012, art. 2(b)(ii), **Sch. 1 Pt. 3** (subject to transitional provisions and savings in Sch. 2 of the commencing S.I.)

F50 Words in s. 7(3)(4)(b) substituted (26.7.2002 for E. and 1.1.2003 for W.) by 2002 c. 15, **s. 138(6)**; S.I. 2002/1912, **art. 2(b)(i)** (subject to transitional provisions and savings in Sch. 2 of the commencing S.I.); S.I. 2002/3012, **art. 2(b)(i)** (subject to transitional provisions and savings in Sch. 2 of the commencing S.I.)

F51 S. 7(6) repealed (26.7.2002 for E. and 1.1.2003 for W.) by 2002 c. 15, s. 180, **Sch. 14**; S.I. 2002/1912, art. 2(b)(ii), **Sch. 1 Pt. 3** (subject to transitional provisions and savings in Sch. 2 of the commencing S.I.); S.I. 2002/3012, art. 2(b)(ii), **Sch. 1 Pt. 3** (subject to transitional provisions and savings in Sch. 2 of the commencing S.I.)

F52 Words repealed by Children Act 1975 (c. 72), **Sch. 4 Pt. I**

Marginal Citations

M12 1952 c. 64.

Enfranchisement

8 Obligation to enfranchise.

(1) Where a tenant of a house has under this Part of this Act a right to acquire the freehold, and gives to the landlord written notice of his desire to have the freehold, then except as provided by this Part of this Act the landlord shall be bound to make to the tenant, and the tenant to accept, (at the price and on the conditions so provided) a grant of the house and premises for an estate in fee simple absolute, subject to the tenancy and to tenant's incumbrances, but otherwise free of incumbrances.

(2) For purposes of this Part of this Act "incumbrances" includes rentcharges and, subject to subsection (3) below, personal liabilities attaching in respect of the ownership of land or an interest in land though not charged on that land or interest; and "tenant's incumbrances" includes any interest directly or indirectly derived out of the tenancy, and any incumbrance on the tenancy or any such interest (whether or not the same matter is an incumbrance also on any interest reversionary on the tenancy).

(3) Burdens originating in tenure, and burdens in respect of the upkeep or regulation for the benefit of any locality of any land, building, structure, works, ways or watercourse shall not be treated as incumbrances for purposes of this Part of this Act, but any conveyance executed to give effect to this section shall be made subject thereto except as otherwise provided by section 11 below.

(4) A conveyance executed to give effect to this section—

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(a) shall have effect under section 2(1) of the [M13]Law of Property Act 1925 to overreach any incumbrance capable of being overreached under that section as if, where the interest conveyed is settled land, the conveyance were made under the powers of the [M14]Settled Land Act 1925 and as if the requirements of section 2(1) as to payment of the capital money allowed any part of the purchase price paid or applied in accordance with sections 11 to 13 below to be so paid or applied;

(b) shall not be made subject to any incumbrance capable of being overreached by the conveyance, but shall be made subject (where they are not capable of being overreached) to rentcharges **[**[F53]redeemable under sections 8 to 10 of the [M15]Rentcharges Act 1977 and those falling within paragraphs (c) and (d) of section 2(3) of that Act (estate rentcharges and rentcharges imposed under certain enactments)**]**, except as otherwise provided by section 11 below.

(5) Notwithstanding that on a grant to a tenant of a house and premises under this section no payment or a nominal payment only is required from the tenant for the price of the house and premises, the tenant shall nevertheless be deemed for all purposes to be a purchaser for a valuable consideration in money or money's worth.

Textual Amendments

F53 Words substituted by Rentcharges Act 1977 (c. 30), s. 17(4), **Sch. 1 para. 4(1)**

Modifications etc. (not altering text)

C5 S. 8 amended by Leasehold Reform Act 1979 (c. 44), **s. 1**

Marginal Citations

M13 1925 c. 20.
M14 1925 c. 18.
M15 1977 c. 30.

9 Purchase price and costs of enfranchisement, and tenant's right to withdraw.

(1) Subject to subsection (2) below, the price payable for a house and premises on a conveyance under section 8 above shall be the amount which at the relevant time the house and premises, if sold in the open market by a willing seller, **[**[F54](with the tenant and members of his family [F55]. . . not buying or seeking to buy)**]** might be expected to realise on the following assumptions:—

(a) on the assumption that the vendor was selling for an estate in fee simple, subject to the tenancy but on the assumption that this Part of this Act conferred no right to acquire the freehold, and if the tenancy has not been extended under this Part of this Act, on the assumption that (subject to the landlord's rights under section 17 below) it was to be so extended;

(b) on the assumption that (subject to paragraph (a) above) the vendor was selling subject, in respect of rentcharges . . . [F56] to which section 11(2) below applies, to the same annual charge as the conveyance to the tenant is to be subject to, but the purchaser would otherwise be effectively exonerated until the termination of the tenancy from any liability or charge in respect of tenant's incumbrances; and

(c) on the assumption that (subject to paragraphs (a) and (b) above) the vendor was selling with and subject to the rights and burdens with and subject to

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which the conveyance to the tenant is to be made, and in particular with and subject to such permanent or extended rights and burdens as are to be created in order to give effect to section 10 below.

[[F57]The reference in this subsection to members of the tenant's family shall be construed in accordance with section 7(7) of this Act.**]**

[[F58](1A) **[**[F59]Notwithstanding the foregoing subsection, the price payable for a house and premises,—

(i) the rateable value of which was above £1,000 in Greater London and £500 elsewhere on 31st March 1990, or,

(ii) which had no rateable value on that date and R exceeded £16,333 under the formula in section 1(1)(a) above (and section 1(7) above shall apply to that amount as it applies to the amount referred to in subsection (1)(a)(ii) of that section)

shall be the amount which at the relevant time the house and premises, if sold in the open market by a willing seller, might be expected to realise on the following assumptions:—**]**

(a) on the assumption that the vendor was selling for an estate in fee simple, subject to the tenancy, but on the assumption that this Part of this Act conferred no right to acquire the freehold; **[**[F60]or an extended lease [F55]. . . .**]**

(b) on the assumption that at the end of the tenancy the tenant has the right to remain in possession of the house and premises

[[F61](i) if the tenancy is such a tenancy as is mentioned in subsection (2) or subsection (3) of section 186 of the Local Government and Housing Act [M16]1989, or is a tenancy which is a long tenancy at a low rent for the purposes of Part I of the Landlord and Tenant Act [M17]1954 in respect of which the landlord is not able to serve a notice under section 4 of that Act specifying a date of termination earlier than 15th January 1999, under the provisions of Schedule 10 to the Local Government and Housing Act 1989; and

(ii) in any other case**]** under the provisions of Part I of the [M18]Landlord and Tenant Act 1954;

(c) on the assumption that the tenant has no liability to carry out any repairs, maintenance or redecorations under the terms of the tenancy or Part I of the Landlord and Tenant Act 1954;

(d) on the assumption that the price be diminished by the extent to which the value of the house and premises has been increased by any improvement carried out by the tenant or his predecessors in title at their own expense;

(e) on the assumption that (subject to paragraph (a) above) the vendor was selling subject, in respect of rentcharges . . . [F62] to which section 11(2) below applies, to the same annual charge as the conveyance to the tenant is to be subject to, but the purchaser would otherwise be effectively exonerated until the termination of the tenancy from any liability or charge in respect of tenant's incumbrances; and

(f) on the assumption that (subject to paragraphs (a) and (b) above) the vendor was selling with and subject to the rights and burdens with and subject to which the conveyance to the tenant is to be made, and in particular with and subject to such permanent or extended rights and burdens as are to be created in order to give effect to section 10 below.

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[[F63](1AA) Where, in a case in which the price payable for a house and premises is to be determined in accordance with subsection (1A) above, the tenancy has been extended under this Part of this Act—

(a) if the relevant time is on or before the original term date, the assumptions set out in that subsection apply as if the tenancy is to terminate on the original term date; and

(b) if the relevant time is after the original term date, the assumptions set out in paragraphs (a), (c) and (e) of that subsection apply as if the tenancy had terminated on the original term date and the assumption set out in paragraph (b) of that subsection applies as if the words "at the end of the tenancy" were omitted.**]**

(1B) For the purpose of determining whether the rateable value of the house and premises is above £1,000 in Greater London, or £500 elsewhere, the rateable value shall be adjusted to take into account any tenant's improvements in accordance with Schedule 8 to the [M19]Housing Act 1974.**]**

[[F64](1C) Notwithstanding subsection (1) above, the price payable for a house and premises where the right to acquire the freehold arises by virtue of any one or more of the provisions of sections 1A **[**[F65], 1AA**]]** and 1B above **[**[F66], or where the tenancy of the house and premises has been extended under section 14 below and the notice under section 8(1) above was given (whether by the tenant or a sub-tenant) after the original term date of the tenancy,**]** shall be determined in accordance with subsection (1A) above; but in any such case—

[F67](a) . . . . . .

(b) section 9A below has effect for determining whether any additional amount is payable by way of compensation under that section;

and in a case where the provision (or one of the provisions) by virtue of which the right to acquire the freehold arises is section 1A(1) above, subsection (1A) above shall apply with the omission of the assumption set out in paragraph (b) of that subsection.

[[F68](1D) Where, in determining the price payable for a house and premises in accordance with this section, there falls to be taken into account any marriage value arising by virtue of the coalescence of the freehold and leasehold interests, the share of the marriage value to which the tenant is to be regarded as being entitled shall be one-half of it.**]**

[[F69](1E) But where at the relevant time the unexpired term of the tenant's tenancy exceeds eighty years, the marriage value shall be taken to be nil.**]**

(2) The price payable for the house and premises shall be subject to such deduction (if any) in respect of any defect in the title to be conveyed to the tenant as on a sale in the open market might be expected to be allowed between a willing seller and a willing buyer.

(3) On ascertaining the amount payable, or likely to be payable, as the price for a house and premises in accordance with this section (but not more than one month after the amount payable has been determined by agreement or otherwise), the tenant may give written notice to the landlord that he is unable or unwilling to acquire the house and premises at the price he must pay; and thereupon—

(a) the notice under section 8 above of his desire to have the freehold shall cease to have effect, and he shall be liable to make such compensation as may be just to the landlord in respect of the interference (if any) by the notice with the exercise by the landlord of his power to dispose of or deal with the house and premises or any neighbouring property; and

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(b) any further notice given under that section with respect to the house or any part of it (with or without other property) shall be void if given within the following **[**[F70]twelve months**]**.

(4) Where a person gives notice of his desire to have the freehold of a house and premises under this Part of this Act, then unless the notice lapses under any provision of this Act excluding his liability, there shall be borne by him (so far as they are incurred in pursuance of the notice) the reasonable costs of or incidental to any of the following matters:—

(a) any investigation by the landlord of that person's right to acquire the freehold;

(b) any conveyance or assurance of the house and premises or any part thereof or of any outstanding estate or interest therein;

(c) deducing, evidencing and verifying the title to the house and premises or any estate or interest therein;

(d) making out and furnishing such abstracts and copies as the person giving the notice may require;

(e) any valuation of the house and premises;

but so that this subsection shall not apply to any costs if on a sale made voluntarily a stipulation that they were to be borne by the purchaser would be void.

(5) The landlord's lien (as vendor) on the house and premises for the price payable shall extend—

(a) to any sums payable by way of rent or recoverable as rent in respect of the house and premises up to the date of the conveyance; and

(b) to any sums for which the tenant is liable under subsection (4) above; and

(c) to any other sums due and payable by him to the landlord under or in respect of the tenancy or any agreement collateral thereto.

Textual Amendments

F54 Words inserted retrospectively by Housing Act 1969 (c. 33), **s. 82**

F55 Words in s. 9(1)(1A)(a) repealed (26.7.2002 for E. and 1.1.2003 for W.) by 2002 c. 15, s. 180, **Sch. 14**; S.I. 2002/1912, art. 2(b)(ii), **Sch. 1 Pt. 3** (subject to transitional provisions and savings in Sch. 2 of the commencing S.I.); S.I. 2002/3012, art. 2(b)(ii), **Sch. 1 Pt. 3** (subject to transitional provisions and savings in Sch. 2 of the commencing S.I.)

F56 Words repealed by Rentcharges Act 1977 (c. 30), s. 17(4), **Sch. 2**

F57 Words added retrospectively by Housing Act 1969 (c. 33), **s. 82**

F58 S. 9(1A)(1B) inserted by Housing Act 1974 (c. 44), **s. 118(4)**

F59 Words substituted by S.I. 1990/434, reg. 2, **Sch. para. 9**

F60 Words inserted by Housing and Planning Act 1986 (c. 63, SIF 75:1), **s. 23(1)(3)**

F61 S. 9(1A)(b)(i) and words following inserted by Local Government and Housing Act 1989 (c. 42, SIF 75:1), s. 194(1), **Sch. 11 para. 9**

F62 Words repealed by Rentcharges Act 1977 (c. 30), s. 17(4), **Sch. 2**

F63 S. 9(1AA) inserted (26.7.2002 for E. and 1.1.2003 for W.) by 2002 c. 15, **s. 143(4)**; S.I. 2002/1912, **art. 2(b)(i)** (subject to transitional provisions and savings in Sch. 2 of the commencing S.I.); S.I. 2002/3012, **art. 2(b)(i)** (subject to transitional provisions and savings in Sch. 2 of the commencing S.I.)

F64 S. 9(1C) inserted (1.11.1993) by 1993 c. 28, **s. 66(1)**; S.I. 1993/2134, **art. 5(a)**

F65 Word in s. 9(1C) inserted (1.4.1997) by 1996 c. 52, s. 106, **Sch. 9 para. 2(1)(4)**; S.I. 1997/618, **art. 2(1)** (with Sch.)

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F66 Words in s. 9(1C) inserted (26.7.2002 for E. and 1.1.2003 for W.) by 2002 c. 15, **s. 147(1)**; S.I. 2002/1912, **art. 2(b)(i)** (subject to transitional provisions and savings in Sch. 2 of the commencing S.I.); S.I. 2002/3012, art. 2(b)(i), **Sch. 1 Pt. 3** (subject to transitional provisions and savings in Sch. 2 of the commencing S.I.)

F67 S. 9(1C)(a) repealed (26.7.2002 for E. and 1.1.2003 for W.) by 2002 c. 15, ss. 145(2), 180, **Sch. 14**; S.I. 2002/1912, art. 2(b), **Sch. 1 Pt. 3** (subject to transitional provisions and savings in Sch. 2 of the commencing S.I.); S.I. 2002/3012, art. 2(b), **Sch. 1 Pt. 3** (subject to transitional provisions and savings in Sch. 2 of the commencing S.I.)

F68 S. 9(1D) inserted (26.7.2002 for E. and 1.1.2003 for W.) by 2002 c. 15, **s. 145(3)**; S.I. 2002/1912, **art. 2(b)(i)** (subject to transitional provisions and savings in Sch. 2 of the commencing S.I.); S.I. 2002/3012, art. 2(b)(i), **Sch. 1 Pt. 3** (subject to transitional provisions and savings in Sch. 2 of the commencing S.I.)

F69 S. 9(1E) inserted (26.7.2002 for E. and 1.1.2003 for W.) by 2002 c. 15, **s. 146**; S.I. 2002/1912, **art. 2(b)(i)** (subject to transitional provisions and savings in Sch. 2 of the commencing S.I.); S.I. 2002/3012, art. 2(b)(i), **Sch. 1 Pt. 3** (subject to transitional provisions and savings in Sch. 2 of the commencing S.I.)

F70 Words in s. 9(3)(b) substituted (26.7.2002 for E. and 1.1.2003 for W.) by 2002 c. 15, **s. 139(3)(a)**; S.I. 2002/1912, **art. 2(b)(i)** (subject to transitional provisions and savings in Sch. 2 of the commencing S.I.); S.I. 2002/3012, art. 2(b)(i), **Sch. 1 Pt. 3** (subject to transitional provisions and savings in Sch. 2 of the commencing S.I.)

Modifications etc. (not altering text)

C6 S. 9(1)(a) modified (1.11.1993) by 1993 c. 28, **s. 73(10)(a)**; S.I. 1993/ 2134, art 5(a)

C7 S. 9(1A) extended by Housing Act 1985 (c. 68, SIF 61), **s. 175(1)**

C8 S. 9(4) excluded (1.11.1993) by 1993 c. 28, **s. 74(4)**; S.I. 1993/2134, **art. 5(a)**

Marginal Citations

M16 1989 c.42 (**75:1**).

M17 1954 c.56 (**75:1**).

M18 1954 c. 56.

M19 1974 c. 44.

[9A [F71]Compensation payable in cases where right to enfranchisement arises by virtue of section 1A or 1B.

(1) If, in a case where the right to acquire the freehold of a house and premises arises by virtue of any one or more of the provisions of sections 1A **[**[F72], 1AA**]]** and 1B above **[**[F73]or where the tenancy of the house and premises has been extended under section 14 below and the notice under section 8(1) above was given (whether by the tenant or a sub-tenant) after the original term date of the tenancy**]**, the landlord will suffer any loss or damage to which this section applies, there shall be payable to him such amount as is reasonable to compensate him for that loss or damage.

(2) This section applies to—

(a) any diminution in value of any interest of the landlord in other property resulting from the acquisition of his interest in the house and premises; and

(b) any other loss or damage which results therefrom to the extent that it is referable to his ownership of any interest in other property.

(3) Without prejudice to the generality of paragraph (b) of subsection (2) above, the kinds of loss falling within that paragraph include loss of development value in relation to the house and premises to the extent that it is referable as mentioned in that paragraph.

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(4) In subsection (3) above "development value", in relation to the house and premises, means any increase in the value of the landlord's interest in the house and premises which is attributable to the possibility of demolishing, reconstructing, or carrying out substantial works of construction on, the whole or a substantial part of the house and premises.

(5) In relation to any case falling within subsection (1) above—

(a) any reference (however expressed)—

(i) in section 8 or 9(3) or (5) above, or

(ii) in any of the following provisions of this Act,

to the price payable under section 9 above shall be construed as including a reference to any amount payable to the landlord under this section; and

(b) for the purpose of determining any such separate price as is mentioned in paragraph 7(1)(b) of Schedule 1 to this Act, this section shall accordingly apply (with any necessary modifications) to each of the superior interests in question.

Textual Amendments

F71 S. 9A inserted (1.11.1993) by 1993 c. 28, **s. 66(3)**; S.I. 1993/2134, **art. 5(a)**

F72 Word in s. 9A(1) inserted (1.4.1997) by 1996 c. 52, s. 106, **Sch. 9 para. 2(1)(5)**; S.I. 1997/618, **art. 2(1)** (with Sch.)

F73 Words in s. 9A(1) inserted (26.7.2002 for E. and 1.1.2003 for W.) by 2002 c. 15, **s. 147(2)**; S.I. 2002/1912, **art. 2(b)(i)** (subject to transitional provisions and savings in Sch. 2 of the commencing S.I.); S.I. 2002/3012, **art. 2(b)(i)** (subject to transitional provisions and savings in Sch. 2 of the commencing S.I.)

10 Rights to be conveyed to tenant on enfranchisement.

(1) Except for the purpose of preserving or recognising any existing interest of the landlord in tenant's incumbrances or any existing right or interest of any other person, a conveyance executed to give effect to section 8 above shall not be framed so as to exclude or restrict the general words implied in conveyances under section 62 of the [M20]Law of Property Act 1925, or the all-estate clause implied under section 63, unless the tenant consents to the exclusion or restriction; but the landlord shall not be bound to convey to the tenant any better title than that which he has or could require to be vested in him, [F74]. . ..

[[F75](1A) The landlord shall not be required to enter into any covenant for title beyond those implied under Part I of the Law of Property (Miscellaneous Provisions) Act 1994 in a case where a disposition is expressed to be made with limited title guarantee; and in the absence of agreement to the contrary he shall be entitled to be indemnified by the tenant in respect of any costs incurred by him in complying with the covenant implied by virtue of section 2(1)(b) of that Act (covenant for further assurance).**]**

(2) As regards rights of any of the following descriptions, that is to say,—

(a) rights of support for any building or part of a building;

(b) rights to the access of light and air to any building or part of a building;

(c) rights to the passage of water or of gas or other piped fuel, or to the drainage or disposal of water, sewage, smoke or fumes, or to the use or maintenance of pipes or other installations for such passage, drainage or disposal;

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(d) rights to the use or maintenance of cables or other installations for the supply of electricity, for the telephone or for the receipt directly or by landline of visual or other wireless transmissions;

a conveyance executed to give effect to section 8 above shall by virtue of this subsection (but without prejudice to any larger operation it may have apart from this subsection) have effect—

(i) to grant with the house and premises all such easements and rights over other property, so far as the landlord is capable of granting them, as are necessary to secure to the tenant as nearly as may be the same rights as at the relevant time were available to him under or by virtue of the tenancy or any agreement collateral thereto, or under or by virtue of any grant, reservation or agreement made on the severance of the house and premises or any part thereof from other property then comprised in the same tenancy; and

(ii) to make the house and premises subject to all such easements and rights for the benefit of other property as are capable of existing in law and are necessary to secure to the person interested in the other property as nearly as may be the same rights as at the relevant time were available against the tenant under or by virtue of the tenancy or any agreement collateral thereto, or under or by virtue of any grant, reservation or agreement made as is mentioned in paragraph (i) above.

(3) As regards right of way, a conveyance executed to give effect to section 8 above shall include—

(a) such provisions (if any) as the tenant may require for the purpose of securing to him rights of way over property not conveyed, so far as the landlord is capable of granting them, being rights of way which are necessary for the reasonable enjoyment of the house and premises as they have been enjoyed during the tenancy and in accordance with its provisions; and

(b) such provisions (if any) as the landlord may require for the purpose of making the property conveyed subject to rights of way necessary for the reasonable enjoyment of other property, being property in which at the relevant time the landlord has an interest, or to rights of way granted or agreed to be granted before the relevant time by the landlord or by the person then entitled to the reversion on the tenancy.

(4) As regards restrictive covenants (that is to say, any covenant or agreement restrictive of the user of any land or premises), a conveyance executed to give effect to section 8 above shall include—

(a) such provisions (if any) as the landlord may require to secure that the tenant is bound by, or to indemnify the landlord against breaches of, restrictive covenants which affect the house and premises otherwise than by virtue of the tenancy or any agreement collateral thereto and are enforceable for the benefit of other property; and

(b) such provisions (if any) as the landlord or the tenant may require to secure the continuance (with suitable adaptations) of restrictions arising by virtue of the tenancy or any agreement collateral thereto, being either—

(i) restrictions affecting the house and premises which are capable of benefiting other property and (if enforceable only by the landlord) are such as materially to enhance the value of the other property; or

(ii) restrictions affecting other property which are such as materially to enhance the value of the house and premises;

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(c) such further provisions (if any) as the landlord may require to restrict the use of the house and premises in any way which will not interfere with the reasonable enjoyment of the house and premises as they have been enjoyed during the tenancy but will materially enhance the value of other property in which the landlord has an interest.

(5) Neither the landlord nor the tenant shall be entitled under subsection (3) or (4) above to require the inclusion in a conveyance of any provision which is unreasonable in all the circumstances, in view—

(a) of the date at which the tenancy commenced, and changes since that date which affect the suitability at the relevant time of the provisions of the tenancy; and

(b) where the tenancy is or was one of a number of tenancies of neighbouring houses, of the interests of those affected in respect of other houses.

(6) The landlord may be required to give to the tenant an acknowledgment within the meaning of section 64 of the [M21]Law of Property Act 1925 as regards any documents of which the landlord retains possession, but not an undertaking for the safe custody of any such documents; and where the landlord is required to enter into any covenant under subsection (4) above, the person entering into the covenant as landlord shall be entitled to limit his personal liability to breaches of the covenant for which he is responsible.

Textual Amendments

F74 Words in s. 10(1) repealed (1.7.1995) by 1994 c. 36, ss. 21(1)(2), 22(2), Sch. 1 para. 5(1), **Sch. 2** (with s. 20); S.I. 1995/1317, **art. 2**

F75 S. 10(1A) inserted (1.7.1995) by 1994 c. 36, ss. 21(1), 22(2), **Sch. 1 para. 5(1)** (with s. 20); S.I. 1995/1317, **art. 2**

Modifications etc. (not altering text)

C9 S. 10 modified (1.11.1993) by 1993 c. 28, **s. 70(12)(b)**; S.I. 1993/2134, **art. 5(a)**

Marginal Citations

M20 1925 c. 20.

M21 1925 c. 20.

11 Exoneration from, or redemption of, rentcharges etc.

(1) Where a house and premises are to be conveyed to a tenant in pursuance of section 8 above, section 8(4)(b) shall not preclude the landlord from releasing, or procuring the release of, the house and premises from any rentcharge . . . [F76]; and the conveyance may, with the tenant's agreement (which shall not be unreasonably withheld), provide in accordance with section 190(1) of the [M22]Law of Property Act 1925 that a rentcharge shall be charged exclusively on other land affected by it in exoneration of the house and premises, or be apportioned between other land affected by it and the house and premises.

(2) Where, but for this subsection, a conveyance of a house and premises to a tenant might in accordance with section 8 above be made subject, in respect of rents to which this subsection applies, to an annual charge exceeding the annual rent payable under the tenancy at the relevant time, then the landlord shall be bound on or before the execution

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of the conveyance to secure that the house and premises are discharged from the whole or part of any rents in question to the extent necessary to secure that the annual charge shall not exceed the annual rent so payable; and for this purpose the annual rent shall be calculated in accordance with section 4(1)(b) and (c) and (6) above.

(3) For purposes of subsection (2) above the house and premises shall be treated as discharged from a rent to the extent to which—

(a) the rent is charged on or apportioned to other land so as to confer on the tenant in respect of the house and premises the remedies against the other land provided for by section 190(2) of the Law of Property Act 1925; or

(b) the landlord is otherwise entitled to be exonerated from or indemnified against liability for the rent in respect of the house and premises and the tenant will (in so far as the landlord's right is not a right against the tenant himself or his land) become entitled on the conveyance to the like exoneration or indemnity.

(4) Where for the purpose of complying with subsection (2) above the house and premises are to be discharged from a rent by redemption of it (with or without prior apportionment), and for any reason mentioned in section **[**[F77]13(2) below**]** difficulty arises in paying the redemption price, the tenant may, and if so required by the landlord shall, before execution of the conveyance pay into court on account of the price for the house and premises an amount not exceeding the appropriate amount to secure redemption of the rent; and if the amount so paid by the tenant is less than that appropriate amount, the landlord shall pay into court the balance.

(5) Where payment is made into court in accordance with subsection (4) above, the house and premises shall on execution of the conveyance be discharged from the rent, and any claim to the redemption money shall lie against the fund in court and not otherwise.

(6) For purposes of subsection (4) above "the appropriate amount to secure redemption" of a rent is (subject to subsection (7) below) the amount of redemption money agreed to be paid or in default of agreement, the amount **[**[F78]specified as the redemption price in instructions for redemption under section 9(4) of the [M23]Rentcharges Act 1977**]**.

(7) Where a rent affects other property as well as the house and premises, and the other property is not exonerated or indemnified by means of a charge on the house and premises, then—

(a) "the appropriate amount to secure redemption" of the rent for purposes of subsection (4) above shall, if no amount has been agreed or **[**[F79]specified**]** as mentioned in subsection (6), be such sum as, on an application under section **[**[F79]4 of the Rentcharges Act 1977**]** for the apportionment of the rent, may, pending the apportionment, be approved by the apportioning authority as suitable provision (with a reasonable margin) for the redemption money of the part likely to be apportioned to the house and premises; and

(b) the apportionment, when made, shall be deemed to have had effect from the date of the payment into court, and if in respect of any property affected by the rent there has been any overpayment or underpayment, the amount shall be made good by abatement of or addition to the next payment after the apportionment and (if necessary) later payments.

(8) Subsection (2) above applies to rentcharges **[**[F80]redeemable under sections 8 to 10 of the Rentcharges Act 1977**]** which during the continuance of the tenancy are, or but for the termination of the tenancy before their commencement would have been, recoverable from the landlord without his having a right to be indemnified by the tenant.

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Textual Amendments

F76 Words repealed by Rentcharges Act 1977 (c. 30), s. 17(4), **Sch. 2**

F77 Words substituted by Rentcharges Act 1977 (c. 30), s. 17(4), **Sch. 1 para. 4(2)** (*b*)

F78 Words substituted by Rentcharges Act 1977 (c. 30), s. 17(4), **Sch. 1 para. 4(2)** (*c*)

F79 Words substituted by Rentcharges Act 1977 (c. 30) s. 17(4), Sch. 1 para. 4(2) (*d*)

F80 Words substituted by Rentcharges Act 1977 (c. 30), s. 17(4), **Sch. 1 para. 4(2)** (*e*)

Marginal Citations

M22 1925 c. 20.

M23 1977 c. 30.

12 Discharge of mortgages etc. on landlord's estate.

(1) Subject to the provisions of this section, a conveyance executed to give effect to section 8 above shall, as regards any charge on the landlord's estate (however created or arising) to secure the payment of money or the performance of any other obligation by the landlord or any other person, not being a charge subject to which the conveyance is required to be made or which would be overreached apart from this section, be effective by virtue of this section to discharge the house and premises from the charge, and from the operation of any order made by a court for the enforcement of the charge, and to extinguish any term of years created for the purposes of the charge, and shall do so without the persons entitled to or interested in the charge or in any such order or term of years becoming parties to or executing the conveyance.

(2) Where in accordance with subsection (1) above the conveyance to a tenant will be effective to discharge the house and premises from a charge to secure the payment of money, then except as otherwise provided by this section it shall be the duty of the tenant to apply the price payable for the house and premises, in the first instance, in or towards the redemption of any such charge (and, if there are more than one, then according to their priorities); and if any amount payable in accordance with this subsection to the person entitled to the benefit of a charge is not so paid nor paid into court in accordance with section 13 below, then for the amount in question the house and premises shall remain subject to the charge, and to that extent subsection (1) above shall not apply.

(3) For the purpose of determining the amount payable in respect of any charge under subsection (2) above a person entitled to the benefit of a charge to which that subsection applies shall not be permitted to exercise any right to consolidate that charge with a separate charge on other property; and if the landlord or the tenant is himself entitled to the benefit of a charge to which that subsection applies, it shall rank for payment as it would if another person were entitled to it, and the tenant shall be entitled to retain the appropriate amount in respect of any such charge of his.

(4) For the purpose of discharging the house and premises from a charge to which subsection (2) above applies, a person may be required to accept three months or any longer notice of the intention to pay the whole or part of the principal secured by the charge, together with interest to the date of payment, notwithstanding that the terms of the security make other provision or no provision as to the time and manner of payment; but he shall be entitled, if he so requires, to receive such additional payment as is reasonable in the circumstances in respect of the costs of re-investment or other

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incidental costs and expenses and in respect of any reduction in the rate of interest obtainable on reinvestment.

(5) Subsection (2) above shall not apply to any debenture holders' charge, that is to say, any charge, whether a floating charge or not, in favour of the holders of a series of debentures issued by a company or other body of persons, or in favour of trustees for such debenture holders; and any such charge shall be disregarded in determining priorities for purposes of subsection (2):

Provided that this subsection shall not have effect in relation to a charge in favour of trustees for debenture holders which at the date of the conveyance to the tenant is (as regards the house and premises) a specific and not a floating charge.

(6) Where the house and premises are discharged by this section from a charge (without the obligations secured by the charge being satisfied by the receipt of the whole or part of the price), the discharge of the house and premises shall not prejudice any right or remedy for the enforcement of those obligations against other property comprised in the same or any other security, nor prejudice any personal liability as principal or otherwise of the landlord or any other person.

(7) Subsections (1) and (2) above shall not be taken to prevent a person from joining in the conveyance for the purpose of discharging the house and premises from any charge without payment or for a less payment than that to which he would otherwise be entitled; and, if he does so, the persons to whom the price ought to be paid shall be determined accordingly.

(8) A charge on the landlord's estate to secure the payment of money or the performance of any other obligation shall not be treated for the purposes of this Part of this Act as a tenant's incumbrance by reason only of the grant of the tenancy being subsequent to the creation of the charge and not authorised as against the persons interested in the charge; and this section shall apply as if the persons so interested at the time of the grant had duly concurred in the grant for the purpose (but only for the purpose) of validating it despite the charge on the grantor's estate:

Provided that, where the tenancy is granted after the commencement of this Part of this Act (whether or not it is, by virtue of section 3(3) above, to be treated for other purposes as forming a single tenancy with a previous tenancy) and the tenancy has not by the time of the conveyance of the house and premises to the tenant become binding on the persons interested in the charge, the conveyance shall not by virtue of this section discharge the house and premises from the charge except so far as it is satisfied by the application or payment into court of the price payable for the house and premises.

(9) Nothing in this section shall apply in relation to any charge falling within section 11 above, and for purposes of subsection (2) above the price payable for the house and premises shall be treated as reduced by any amount to be paid out of it before execution of the conveyance for the redemption of a rent in accordance with section 11(4).

13 Payment into court in respect of mortgages etc.

(1) Where under section 12(1) above a house and premises are, on a conveyance to the tenant, to be discharged of any charge falling within that subsection, and in accordance with section 12(2) a person is or may be entitled in respect of the charge to receive the whole or part of the price payable for the house and premises, then if—

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(a) for any reason difficulty arises in ascertaining how much is payable in respect of the charge; or

(b) for any reason mentioned in subsection (2) below difficulty arises in making a payment in respect of the charge;

the tenant may pay into court on account of the price for the house and premises the amount, if known, of the payment to be made in respect of the charge or, if that amount is not known, the whole of the price or such less amount as the tenant thinks right in order to provide for that payment.

(2) Payment may be made into court in accordance with subsection (1)(b) above where the difficulty arises for any of the following reasons:—

(a) because a person who is or may be entitled to receive payment cannot be found or ascertained;

(b) because any such person refuses or fails to make out a title, or to accept payment and give a proper discharge, or to take any steps reasonably required of him to enable the sum payable to be ascertained and paid; or

(c) because a tender of the sum payable cannot, by reason of complications in the title to it or the want of two or more trustees or for other reasons, be effected, or not without incurring or involving unreasonable cost or delay.

(3) Without prejudice to subsection (1)(a) above, the price payable for a house and premises on a conveyance under section 8 above shall be paid by the tenant into court if before execution of the conveyance written notice is given to him—

(a) that the landlord or a person entitled to the benefit of a charge on the house and premises so requires for the purpose of protecting the rights of persons so entitled, or for reasons related to any application made or to be made under section 36 below, or to the bankruptcy or winding up of the landlord; or

(b) that steps have been taken to enforce any charge on the landlord's interest in the house and premises by the bringing of proceedings in any court, or by the appointment of a receiver, or otherwise;

and where payment is to be made into court by reason only of a notice under this subsection, and the notice is given with reference to proceedings in a court specified in the notice other than the county court, payment shall be made into the court so specified.

(4) For the purpose of computing the amount payable into court under this section, the price payable for the house and premises shall be treated as reduced by any amount to be paid out of it before execution of the conveyance for the redemption of a rent in accordance with section 11(4) above.

Extension

14 Obligation to grant extended lease.

(1) Where a tenant of a house has under this Part of this Act a right to an extended lease, and gives to the landlord written notice of his desire to have it, then except as provided by this Part of this Act the landlord shall be bound to grant to the tenant, and the tenant to accept, in substitution for the existing tenancy a new tenancy of the house and premises for a term expiring fifty years after the term date of the existing tenancy.

(2) Where a person gives notice of his desire to have an extended lease of a house and premises under this Part of this Act, then unless the notice lapses under any provision

of this Act excluding his liability, there shall be borne by him (so far as they are incurred in pursuance of the notice) the reasonable costs of or incidental to any of the following matters:—

(a) any investigation by the landlord of that person's right to an extended lease;

(b) any lease granting the new tenancy;

(c) any valuation of the house and premises obtained by the landlord before the grant of the new tenancy for the purpose of fixing the rent payable under it in accordance with section 15 below.

(3) A tenant shall not be entitled to require the execution of a lease granting a new tenancy under this section otherwise than on tender of the amount, so far as ascertained,—

(a) of any sums payable by way of rent or recoverable as rent in respect of the house and premises up to the date of tender; and

(b) of any sums for which at that date the tenant is liable under subsection (2) above; and

(c) of any other sums due and payable by him to the landlord under or in respect of the existing tenancy or any agreement collateral thereto;

and, if the amount of any such sums is not or may not be fully ascertained, on offering reasonable security for the payment of such amount as may afterwards be found to be payable in respect of them.

(4) This section shall have effect notwithstanding that the grant of the existing tenancy was subsequent to the creation of a charge on the landlord's estate and not authorised as against the persons interested in the charge; and a lease executed to give effect to this section shall be deemed to be authorised as against the persons interested in any charge on the landlord's estate, however created or arising, and shall be binding on them:

Provided that, where the existing tenancy is granted after the commencement of this Part of this Act (whether or not it is, by virtue of section 3(3) above, to be treated for other purposes as forming a single tenancy with a previous tenancy) and, the grant being subsequent to the creation of the charge on the landlord's estate, the existing tenancy is not binding on the persons interested in the charge, a lease executed to give effect to this section shall not by virtue of this subsection be binding on those persons.

(5) Where a lease is executed to give effect to this section, and any person having a charge on the landlord's estate is by reason thereof entitled to possession of the documents of title relating to that estate, the landlord shall within one month after execution of the lease deliver to that person a counterpart of it duly executed by the tenant, and the instrument creating or evidencing the charge shall apply in the event of his failing to deliver a counterpart in accordance with this subsection as if the obligation to do so were included in the terms of the charge as set out in that instrument.

(6) Where under a lease executed to give effect to this section the new tenancy takes effect subject to a subsisting charge on the existing tenancy, and at the time of its execution the person having the charge is by reason thereof entitled to possession of the documents of title relating to the existing tenancy, then he shall be similarly entitled to possession of the documents of title relating to the new tenancy and the tenant shall within one month of the execution of the lease deliver it to him, and the instrument creating or evidencing the charge shall apply in the event of the tenant failing to deliver the lease in accordance with this subsection as if the obligation to do so were included in the terms of the charge as set out in that instrument.

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(7) A landlord granting a lease under this section shall be bound to take such steps as may be necessary to secure that it is not liable in accordance with the proviso to subsection (4) above to be defeated by persons interested in a charge on his estate; but a landlord is not obliged, in order to grant a lease under this section, to acquire a better title than he has or could require to be vested in him.

15 Terms of tenancy to be granted on extension.

(1) Subject to the provisions of this Part of this Act, the new tenancy to be granted under section 14 above shall be a tenancy on the same terms as the existing tenancy as those terms apply at the relevant time, but with such modifications as may be required or appropriate to take account—
   (a) of the omission from the new tenancy of property comprised in the existing tenancy; or
   (b) of alterations made to the property demised since the grant of the existing tenancy; or
   (c) in a case where the existing tenancy derives (in accordance with section 3(6) above) from more than one separate tenancies, of their combined effect and of the differences (if any) in their terms.

(2) The new tenancy shall provide that as from the original term date the rent payable for the house and premises shall be a rent ascertained or to be ascertained as follows:—
   (a) the rent shall be a ground rent in the sense that it shall represent the letting value of the site (without including anything for the value of buildings on the site) for the uses to which the house and premises have been put since the commencement of the existing tenancy, other than uses which by the terms of the new tenancy are not permitted or are permitted only with the landlord's consent;
   (b) the letting value for this purpose shall be in the first instance the letting value at the date from which the rent based on it is to commence, but as from the expiration of twenty-five years from the original term date the letting value at the expiration of those twenty-five years shall be substituted, if the landlord so requires, and a revised rent become payable accordingly;
   (c) the letting value at either of the times mentioned shall be determined not earlier than twelve months before that time (the reasonable cost of obtaining a valuation for the purpose being borne by the tenant), and there shall be no revision of the rent as provided by paragraph (b) above unless in the last of the twenty-five years there mentioned the landlord gives the tenant written notice claiming a revision.

(3) Where during the continuance of the new tenancy the landlord will be under any obligation for the provision of services, or for repairs, maintenance or insurance, the rent payable in accordance with subsection (2) above shall be in addition to any sums payable (whether as rent or otherwise) in consideration of those matters or in respect of the cost thereof to the landlord; and if the terms of the existing tenancy include no provision for the making of any such payments by the tenant, or provision only for the payment of a fixed amount, the terms of the new tenancy shall make, as from the time when rent becomes payable in accordance with subsection (2) above, such provision as may be just for the making by the tenant of payments related to the cost from time to time to the landlord, and for the tenant's liability to make those payments to be enforceable by distress, re-entry or otherwise in like manner as the liability for the rent.

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(4) Subject to subsection (5) below, provision shall be made by the terms of the new tenancy or by an instrument collateral thereto for the continuance with any suitable adaptations of any agreement collateral to the existing tenancy.

(5) For purposes of subsections (1) and (4) above, there shall be excluded any term of the existing tenancy or any agreement collateral thereto in so far as that term provides for or relates to the renewal of the tenancy, or confers any option to purchase or right of pre-emption in relation to the house and premises, or provides for the termination of the tenancy before the term date otherwise than in the event of a breach of its terms; and there shall be made in the terms of the new tenancy or any instrument collateral thereto such modifications as may be required or appropriate to take account of the exclusion of any such term as aforesaid.

(6) Where the new tenancy is granted after the original term date, the first reference in subsection (2) above to that date shall have effect as a reference to the grant of the new tenancy; but on the grant of the new tenancy there shall be payable by the tenant to the landlord as an addition to the rent payable under the existing tenancy any amount by which for the period since the relevant time or the original term date (whichever is the later) the sums payable to the landlord in respect of the house and premises (after making any necessary apportionment) for rent and matters referred to in subsection (3) above fall short in total of the sums that would have been payable for rent and matters so referred to under the new tenancy, and section 14(3)(a) above shall apply accordingly.

(7) Subsections (1) to (6) above shall have effect subject to any agreement between the landlord and tenant as to the terms of the new tenancy or any agreement collateral thereto; and either of them may require that for purposes of the new tenancy there shall be excluded or modified any term of the existing tenancy or an agreement collateral thereto which it would be unreasonable in the circumstances to include unchanged in the new tenancy in view of the date at which the existing tenancy commenced and of changes since that date which affect the suitability at the relevant time of the provisions of that tenancy.

(8) The new tenancy shall make provision in accordance with section 16(4) below, and shall reserve to the landlord the right to resume possession in accordance with section 17.

[[F81](9) In granting the new tenancy, the landlord shall not be bound to enter into any covenant for title beyond—

(a) those implied from the grant, and

(b) those implied under Part I of the Law of Property (Miscellaneous Provisions) Act 1994 in a case where a disposition is expressed to be made with limited title guarantee, but not including (in the case of a sub-tenancy) the covenant in section 4(1)(b) of that Act (compliance with terms of lease);

and in the absence of agreement to the contrary the landlord shall be entitled to be indemnified by the tenant in respect of any costs incurred by him in complying with the covenant implied by virtue of section 2(1)(b) of that Act (covenant for further assurance).

(9A) A person entering into any covenant required of him as landlord (under subsection (9) or otherwise) shall be entitled to limit his personal liability to breaches of that covenant for which he is responsible.**]**

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(10) Nothing in this section shall affect the rights or obligations of the landlord under section 35 of and Schedule 1 to the [M24]Sexual Offences Act 1956 (which apply where the tenant or occupier of any premises is convicted of permitting the whole or part of them to be used as a brothel).

Textual Amendments

F81 S. 15(9) substituted for s. 15(9)(9A) (1.7.1995) by 1994 c. 36, s. 21(1), **Sch. 1 para. 5(2)** (with s. 20); S.I. 1995/1317, **art. 2**

Marginal Citations

M24 1956 c. 69.

16 Exclusion of further rights after extension.

(1) Subject to subsections (2) and (3) below, where a tenancy of a house and premises has been extended under section 14 above, then as regards any property comprised in the extended tenancy—

[F82](a) . . . . . .

(b) there shall be no further right to an extension of the tenancy under this Part of this Act; and

(c) neither section 1 of the [M25]Landlord and Tenant Act 1954 nor Part II of that Act shall apply to the tenancy; and

(d) after the extended term date neither section 1 of the Landlord and Tenant Act 1954 nor Part II of that Act shall apply to any sub-tenancy directly or indirectly derived out of the tenancy, nor shall a person be entitled by virtue of any such sub-tenancy to retain possession under **[**[F83]**[**[F84]Part VII of the [M26]Rent Act 1977**]** or any enactment applying or extending that Part of that Act**][**[F85]or under the [M27]Rent (Agriculture) Act 1976**]**.

[[F86](1A) The Rent Act 1977 shall not apply to a tenancy extended under section 14 above; but if when this provision comes into force a rent is registered under Part IV of the 1977 Act for a dwelling-house which is the subject of an extended tenancy, the tenant shall not be obliged to pay more than the registered rent under the extended tenancy until the next rental period (within the meaning of the 1977 Act) after the landlord has served on him a notice in writing that the registered rent no longer applies.**]**

[[F87](1B) Schedule 10 to the Local Government and Housing Act 1989 applies to every tenancy extended under section 14 above (whether or not it is for the purposes of that Schedule a long tenancy at a low rent as respects which the qualifying condition is fulfilled).**]**

(2) Where—

(a) a tenancy of a house and premises has been extended under section 14 above; and

(b) any part other than the house of the property then comprised in that tenancy is afterwards (while so comprised) held or occupied with another house not so comprised;

subsection (1)(a) or (b) above shall not apply to exclude any right under this Part of this Act of a tenant of the other house to acquire the freehold or an extended lease of that part as being at the relevant time comprised in his house and premises, unless the landlord objects in accordance with subsection (3) below.

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(3) If, in a case falling within subsection (2) above, a tenant of the other house gives notice of his desire to have [F88]. . . an extended lease under this Part of this Act, the landlord, not later than two months afterwards, may give him written notice objecting to the inclusion in his house and premises of the part in question; and, if the landlord does so, that part shall be treated as not so included and this Part of this Act shall apply as it applies where property is excluded from a house and premises under section 2(4):

[F88] . . ..

(4) Where a tenancy has been extended under section 14 above, no long tenancy created immediately or derivatively by way of sub-demise under the tenancy shall confer on the sub-tenant, as against the tenant's landlord, any right under this Part of this Act to acquire [F89]. . . an extended lease.

(5) Where a tenancy has been extended under section 14 above, and that tenancy and any subsequent tenancy at a low rent of property comprised in it (with or without intervening tenancies) are to be treated under section 3(3) above as a single tenancy of that property, the single tenancy shall be treated for purposes of this section as one which has been extended under section 14, and the instrument granting any such subsequent tenancy shall make provision in accordance with subsection (4) above.

(6) A person granting a sub-tenancy to which subsection (1)(d) above will apply, or negotiating with a view to the grant of such a sub-tenancy by him or by a person for whom he is acting as agent, shall inform the other party that the sub-tenancy is to be derived out of a tenancy extended under section 14 of this Act (or one treated for purposes of this section as so extended), unless either he knows that the other party is aware of it or he himself is unaware of it.

(7) Where an instrument extending a tenancy at a low rent, or granting a further tenancy at a low rent in substitution for or in continuance of such a tenancy, contains a statement to the effect that the tenancy is being or has been previously extended under this Part of this Act, the statement shall be conclusive for purposes of this section in favour of any person not being a party to the instrument, unless the statement appears from the instrument to be untrue.

(8) Any person who—

(a) includes or causes to be included in an instrument a statement to the effect mentioned in subsection (7) above, knowing the statement to be untrue; or

(b) executes, or with intent to deceive makes use of, any instrument, knowing that it contains such a statement and that the statement is untrue;

shall be liable on conviction on indictment to imprisonment for a term not exceeding two years, or on summary conviction to imprisonment for a term not exceeding three months or to a fine not exceeding one hundred pounds or to both.

Textual Amendments

F82 S. 16(1)(a) repealed (26.7.2002 for E. and 1.1.2003 for W.) by 2002 c. 15, ss. 143(1)(a)(3), 180, **Sch. 14**; S.I. 2002/1912, art. 2(b)(ii), **Sch. 1 Pt. 3** (subject to transitional provisions and savings in Sch. 2 of the commencing S.I.); S.I. 2002/3012, art. 2(b)(ii), **Sch. 1 Pt. 3** (subject to transitional provisions and savings in Sch. 2 of the commencing S.I.)

F83 Words substituted by Rent Act 1968 (c. 23), **Sch. 15**; continued by Rent Act 1977 (c. 42), **Sch. 24 para. 30**

F84 Words substituted by Rent Act 1977 (c. 42), s. 155(2), **Sch. 23 para. 43**

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F85 Words added by Rent (Agriculture) Act 1976 (c. 80), **Sch. 8 para. 17**

F86 S. 16(1A) inserted by Housing Act 1980 (c. 51), **Sch. 21 para. 4**

F87 S. 16(1B) substituted (26.7.2002 for E. and 1.1.2003 for W.) by 2002 c. 15, **s. 143(2)(3)**; S.I. 2002/1912, **art. 2(b)(i)** (subject to transitional provisions and savings in Sch. 2 of the commencing S.I.); S.I. 2002/3012, **art. 2(b)(i)** (subject to transitional provisions and savings in Sch. 2 of the commencing S.I.)

F88 Words in s. 16(3) and proviso repealed (26.7.2002 for E. and 1.1.2003 for W.) by 2002 c. 15, s. 180, **Sch. 14**; S.I. 2002/1912, art. 2(b)(ii), **Sch. 1 Pt. 3** (subject to transitional provisions and savings in Sch. 2 of the commencing S.I.); S.I. 2002/3012, art. 2(b)(ii), **Sch. 1 Pt. 3** (subject to transitional provisions and savings in Sch. 2 of the commencing S.I.)

F89 Words in s. 16(4) repealed (26.7.2002 for E. and 1.1.2003 for W.) by 2002 c. 15, ss. 143(1)(b)(3), 180, **Sch. 14**; S.I. 2002/1912, art. 2(b)(ii), **Sch. 1 Pt. 3** (subject to transitional provisions and savings in Sch. 2 of the commencing S.I.); S.I. 2002/3012, art. 2(b)(ii), **Sch. 1 Pt. 3** (subject to transitional provisions and savings in Sch. 2 of the commencing S.I.)

Marginal Citations

M25 1954 c. 56.

M26 1977 c. 42.

M27 1976 c. 80.

Landlord's overriding rights

17 Redevelopment rights (exclusion or termination of extension).

(1) Where a tenancy of a house and premises has been extended under section 14 above, the landlord may, at any time not earlier than twelve months before the original term date of the tenancy, apply to the court for an order that he may resume possession of the property on the ground that for purposes of redevelopment he proposes to demolish or reconstruct the whole or a substantial part of the house and premises.

(2) If on an application under subsection (1) above the court is satisfied that the landlord has established the ground mentioned in that subsection, then subject to the provisions of this section the court shall by order declare that the landlord is entitled as against the tenant to obtain possession of the house and premises and the tenant is entitled to be paid compensation by the landlord for the loss of the house and premises.

(3) Where an order is made under subsection (2) above, the tenancy shall determine and the compensation become payable in accordance with Schedule 2 to this Act; and the provisions of that Schedule shall have effect as regards the measure of compensation under any such order and the effects of the order where there are sub-tenancies, and as regards other matters relating to applications and orders under this section.

(4) Where the tenancy of a house and premises has not been extended under section 14 above, but the tenant has a right to an extended lease and gives notice of his desire to have one, then this section shall apply as if the lease had been extended under section 14; and—

(a) on the making by the landlord of an application under this section, the notice shall be suspended until the time when an order under subsection (2) or an order dismissing the application becomes final or the application is withdrawn; and

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(b) on an order under subsection (2) becoming final, the notice shall cease to have effect, but section 14(2) above shall not apply to require the tenant to make any payment to the landlord in respect of costs incurred by reason of the notice.

(5) For purposes of subsection (4) above, the reference in subsection (1) to the original term date shall have effect as a reference to the term date or, in a case where before the relevant time the landlord had given notice to quit terminating the tenancy at a date earlier than the term date, as a reference to the date specified in the notice to quit.

(6) Where a landlord makes an application under subsection (1) above, then—

(a) if the tenant afterwards gives notice of his desire to have the freehold of the house and premises under this Part of this Act, that notice shall be of no effect if it is not given before the date of the order fixing the date for the termination of the tenancy (in accordance with Schedule 2 to this Act), or if the tenant's notice of his desire to have an extended lease was given within twelve months before the making of the landlord's application; and

(b) if a notice given by the tenant (before or after the making of the landlord's application) of his desire to have the freehold has effect, no order or further order shall be made on the landlord's application except as regards costs, but without prejudice to the making of a further application by the landlord if the tenant's notice lapses without effect being given to it.

18 Residential rights (exclusion of enfranchisement or extension).

(1) Subject to subsection (2) below, where the tenancy of a house and premises has not been extended under section 14 above, but the tenant has a right to acquire the freehold or an extended lease and has given notice of his desire to have it, the landlord may, at any time before effect is given to the notice, apply to the court for an order that he may resume possession of the property on the ground that it or part of it is or will be reasonably required by him for occupation as the only or main residence of the landlord or of a person who is at the time of the application an adult member of the landlord's family.

(2) A landlord shall not be entitled to apply to the court under this section if his interest in the house and premises, or an interest which has merged in that interest but would otherwise have had a duration extending at least five years longer than that of the tenancy, was purchased or created after the 18th February 1966; and for purposes of this subsection the duration of any interest in the house and premises (including the tenancy) shall be taken to be the period until it is due to expire or, if capable of earlier determination by notice given by a person as landlord, the date or earliest date which has been or could be specified in such a notice.

(3) Where the landlord's interest is held on trust, subsection (1) above shall apply as if the reference to occupation as the residence of the landlord were a reference to the like occupation of a person having an interest under the trust (whether or not also a trustee), and the reference to a member of the landlord's family were a reference to the like member of such a person's family; and for purposes of subsection (1) a person is an adult member of another's family if that person is—

(a) the other's wife or husband; or

(b) a son or daughter or a son-in-law or daughter-in-law of the other, or of the other's wife or husband, who has attained the age of eighteen; or

(c) the father or mother of the other, or of the other's wife or husband.

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In paragraph (b) above any reference to a person's son or daughter includes a reference to any stepson or stepdaughter, any illegitimate son or daughter, . . . [F90] of that person, and "son-in-law" and "daughter-in-law" shall be construed accordingly.

(4) If on an application under subsection (1) above the court is satisfied that the landlord has established the ground mentioned in that subsection and is not disentitled by subsection (2), the court shall by order declare that the landlord is entitled as against the tenant to obtain possession of the house and premises and the tenant is entitled to be paid compensation by the landlord for the loss of the house and premises:

Provided that the court shall not make an order under this subsection if the court is satisfied that having regard to all the circumstances of the case, including the question whether other accommodation is available for the landlord or the tenant, greater hardship would be caused by making the order than by refusing to make it.

(5) Where an order is made under subsection (4) above, the tenancy shall determine and the compensation become payable in accordance with Schedule 2 to this Act; and the provisions of that Schedule shall have effect as regards the measure of compensation under any such order and the effects of the order where there are sub-tenancies, and as regards other matters relating to applications and orders under this section.

(6) Where a landlord makes an application under this section,—

(a) any notice previously given by the tenant of his desire to have the freehold or an extended lease of the house and premises under this Part of this Act shall be suspended until the time when an order under subsection (4) or an order dismissing the application becomes final or the application is withdrawn; and

(b) on an order under subsection (4) becoming final, the notice shall cease to have effect, but section 9(4) or 14(2) above shall not apply to require the tenant to make any payment to the landlord in respect of costs incurred by reason of the notice;

and a notice of the tenant's desire to have the freehold shall be of no effect if given after the making of the application and before the time referred to in paragraph (a) above or after an order under subsection (4) above has become final.

Textual Amendments

F90 Words repealed by Children Act 1975 (c. 72), **Sch. 4 Pt. I**

19 Retention of management powers for general benefit of neighbourhood.

(1) Where, in the case of any area which is occupied directly or indirectly under tenancies held from one landlord (apart from property occupied by him or his licensees or for the time being unoccupied), the Minister on an application made within the two years beginning with the commencement of this Part of this Act grants a certificate that, in order to maintain adequate standards of appearance and amenity and regulate redevelopment in the area in the event of tenants acquiring the landlord's interest in their house and premises under this Part of this Act, it is in the Minister's opinion likely to be in the general interest that the landlord should retain powers of management in respect of the house and premises or have rights against the house and premises in respect of the benefits arising from the exercise elsewhere of his powers of management, then the High Court may, on an application made within one year of the

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giving of the certificate, approve a scheme giving the landlord such powers and rights as are contemplated by this subsection.

For purposes of this section "the Minister" means as regards areas within Wales and Monmouthshire the Secretary of State, and as regards other areas the Minister of Housing and Local Government.

(2) The Minister shall not give a certificate under this section unless he is satisfied that the applicant has, by advertisement or otherwise as may be required by the Minister, given adequate notice to persons interested, informing them of the application for a certificate and its purpose and inviting them to make representations to the Minister for or against the application within a time which appears to the Minister to be reasonable; and before giving a certificate the Minister shall consider any representations so made within that time, and if from those representations it appears to him that there is among the persons making them substantial opposition to the application, he shall afford to those opposing the application, and on the same occasion to the applicant and such (if any) as the Minister thinks fit of those in favour of the application, an opportunity to appear and be heard by a person appointed by the Minister for the purpose, and shall consider the report of that person.

(3) The Minister in considering whether to grant a certificate authorising a scheme for any area, and the High Court in considering whether to approve a scheme shall have regard primarily to the benefit likely to result from the scheme to the area as a whole (including houses likely to be acquired from the landlord under this Part of this Act), and the extent to which it is reasonable to impose, for the benefit of the area, obligations on tenants so acquiring their freeholds; but regard may also be had to the past development and present character of the area and to architectural or historical considerations, to neighbouring areas and to the circumstances generally.

(4) If, having regard to the matters mentioned in subsection (3) above, to the provision which it is practicable to make by a scheme, and to any change of circumstances since the giving of the certificate under subsection (1), the High Court think it proper so to do, then the High Court may by order—

(a) exclude from the scheme any part of the area certified under that subsection; or

(b) declare that no scheme can be approved for the area;

and before submitting for approval a scheme for an area so certified a person may, if he sees fit, apply to the High Court for general directions as to the matters proper to be included in the scheme and for a decision whether an order should be made under paragraph (a) or (b) above.

(5) Subject to subsections (3) and (4) above, on the submission of a scheme to the High Court, the High Court shall approve the scheme either as originally submitted or with any modifications proposed or agreed to by the applicant for the scheme, if the scheme (with those modifications, if any) appears to the court to be fair and practicable and not to give the landlord a degree of control out of proportion to that previously exercised by him or to that required for the purposes of the scheme; and the High Court shall not dismiss an application for the approval of a scheme, unless either—

(a) the Court makes an order under subsection (4)(b) above; or

(b) in the opinion of the Court the applicant is unwilling to agree to a suitable scheme or is not proceeding in the matter with due despatch.

(6) A scheme under this section may make different provision for different parts of the area, and shall include provision for terminating or varying all or any of the provisions

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of the scheme, or excluding part of the area, if a change of circumstances makes it appropriate, or for enabling it to be done by or with the approval of the High Court.

(7) Except as provided by the scheme, the operation of a scheme under this section shall not be affected by any disposition or devolution of the landlord's interest in the property within the area or parts of that property; but the scheme—

(a) shall include provision for identifying the person who is for the purposes of the scheme to be treated as the landlord for the time being; and

(b) may include provision for transferring, or allowing the landlord for the time being to transfer, all or any of the powers and rights conferred by the scheme on the landlord for the time being to a local authority or other body, including a body constituted for the purpose.

In the following provisions of this section references to the landlord for the time being shall have effect, in relation to powers and rights transferred to a local authority or other body as contemplated by paragraph (b) above, as references to that authority or body.

(8) Without prejudice to any other provision of this section, a scheme under it may provide for all or any of the following matters:—

(a) for regulating the redevelopment, use or appearance of property of which tenants have acquired the landlord's interest under this Part of this Act; and

(b) for empowering the landlord for the time being to carry out work for the maintenance or repair of any such property or carry out work to remedy a failure in respect of any such property to comply with the scheme, or for making the operation of any provisions of the scheme conditional on his doing so or on the provision or maintenance by him of services, facilities or amenities of any description; and

(c) for imposing on persons from time to time occupying or interested in any such property obligations in respect of maintenance or repair of the property or of property used or enjoyed by them in common with others, or in respect of cost incurred by the landlord for the time being on any matter referred to in this paragraph or in paragraph (b) above;

(d) for the inspection from time to time of any such property on behalf of the landlord for the time being, and for the recovery by him of sums due to him under the scheme in respect of any such property by means of a charge on the property;

and the landlord for the time being shall have, for the enforcement of any charge imposed under the scheme, the same powers and remedies under the [M28]Law of Property Act 1925 and otherwise as if he were a mortgagee by deed having powers of sale and leasing and of appointing a receiver.

(9) A scheme under this section may extend to property in which the landlord's interest is disposed of otherwise than under this Part of this Act (whether residential property or not), so as to make that property, or allow it to be made, subject to any such provision as is or might be made by the scheme for property in which tenants acquire the landlord's interest under this Part of this Act.

(10) A certificate given or scheme approved under this section **[**[F91]shall (notwithstanding section 2(a) or (b) of the [M29]Local Land Charges Act 1975) be a local land charge and for the purposes of that Act the landlord for the area to which it relates shall be treated as the originating authority as respects such charge; and where a scheme is registered in the appropriate local land charges register**]**—

(a) the provisions of the scheme relating to property of any description shall, so far as they respectively affect the persons from time to time occupying or interested in that property, be enforceable by the landlord for the time being against them, as if each of them had covenanted with the landlord for the time being to be bound by the scheme; and

(b) in relation to a house and premises in the area section 10 above shall have effect subject to the provisions of the scheme, and the price payable under section 9 shall be adjusted accordingly.

[[F92](10A) Section 10 of the Local Land Charges Act 1975 shall not apply in relation to schemes which, by virtue of this section, are local land charges.**]**

(11) Subject to subsections (12) and (13) below, a certificate shall not be given nor a scheme approved under this section for any area except on the application of the landlord.

(12) Where, on a joint application made by two or more persons as landlords of neighbouring areas, it appears to the Minister—

(a) that a certificate could in accordance with subsection (1) above be given as regards those areas, treated as a unit, if the interests of those persons were held by a single person; and

(b) that the applicants are willing to be bound by any scheme to co-operate in the management of their property in those areas and in the administration of the scheme;

the Minister may give a certificate under this section for those areas as a whole; and where a certificate is given by virtue of this subsection, this section shall apply accordingly, but so that any scheme made by virtue of the certificate shall be made subject to conditions (enforceable in such manner as may be provided by the scheme) for securing that the landlords and their successors co-operate as aforesaid.

(13) Where it appears to the Minister—

(a) that a certificate could be given under this section for any area or areas on the application of the landlord or landlords; and

(b) that any body of persons is so constituted as to be capable of representing for purposes of this section the persons occupying or interested in property in the area or areas (other than the landlord or landlords), or such of them as are or may become entitled to acquire their landlord's interest under this Part of this Act, and is otherwise suitable;

then on an application made by that body either alone or jointly with the landlord or landlords a certificate may be granted accordingly; and where a certificate is so granted, whether to a representative body alone or to a representative body jointly with the landlord or landlords,—

(i) an application for a scheme in pursuance of the certificate may be made by the representative body alone or by the landlord or landlords alone or by both jointly and, by leave of the High Court, may be proceeded with by the representative body or by the landlord or landlords though not the applicant or applicants; and

(ii) without prejudice to subsection (7)(b) above, the scheme may, with the consent of the landlord or landlords or on such terms as to compensation or otherwise as appear to the High Court to be just, confer on the representative body any such rights or powers under the scheme as might be conferred on the landlord or landlords for the time being, or enable the representative body

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to participate in the administration of the scheme or in the management by the landlord or landlords of his or their property in the area or areas.

(14) Where a certificate under this section has been given for an area, or an application for one is pending, then subject to subsection (15) below if (before or after the making of the application or the giving of the certificate) a tenant of a house in the area gives notice of his desire to have the freehold under this Part of this Act,—

(a) no further proceedings need be taken in relation to the notice beyond those which appear to the landlord to be reasonable in the circumstances; but

(b) the tenant may at any time withdraw the notice by a further notice in writing given to the landlord, and section 9(4) above shall not apply to require him to make any payment to the landlord in respect of costs incurred by reason of the notice withdrawn.

(15) Subsection (14) above shall cease to have effect by virtue of an application for a certificate if the application is withdrawn or the certificate refused, and shall cease to have effect as regards the whole or part of an area to which a certificate relates—

(a) on the approval of a scheme for the area or that part of it; or

(b) on the expiration of one year from the giving of the certificate without an application having been made to the High Court for the approval of a scheme for the area or that part of it, or on the withdrawal of an application so made without a scheme being approved; or

(c) on an order made under subsection (4) above with respect to the area or that part of it, or an order dismissing an application for the approval of a scheme for the area or that part of it, becoming final.

Textual Amendments

F91 Words substituted by Local Land Charges Act 1975 (c. 76), **Sch. 1**

F92 S. 19(10A) inserted by Local Land Charges Act 1975 (c. 76), **Sch. 1**

Modifications etc. (not altering text)

C10 Reference to Minister of Housing and Local Government to be construed as reference to Secretary of State: S.I. 1970/1681, **art. 6(3)**

C11 S. 19 modified by Housing Act 1974 (c. 44), **s. 118(2)**

Marginal Citations

M28 1925 c. 20.

M29 1975 c. 76.

Determination of questions, procedure, etc.

20 Jurisdiction and special powers of county court.

(1) Subject to section 115 of the [M30]County Courts Act 1959, any jurisdiction expressed to be conferred on the court by this Part of this Act shall, unless the contrary intention appears, be exercised by the county court.

(2) Except as provided by this section and section 21 below, there shall also be brought in the county court any proceedings under this Part of this Act of the following descriptions:—

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(a) proceedings for determining whether a person is entitled to acquire the freehold or an extended lease of a house and premises, or to what property his right extends;

(b) proceedings for determining what provisions ought to be contained in a conveyance in accordance with section 10 or 29(1), or in a lease granting a new tenancy under section 14;

(c) any other proceedings relating to the performance or discharge of obligations arising out of a tenant's notice of his desire to have the freehold or an extended lease, including proceedings for the recovery of damages or compensation in the event of the obligations not being performed;

(d) any proceedings for determining the amount of a sub-tenant's share under Schedule 2 to this Act in compensation payable to a tenant under section 17 or 18, or for establishing or giving effect to his right to it.

(3) Where in connection with any acquisition by a tenant of the freehold or an extended lease under this Part of this Act it is necessary to apportion between the house and premises (or part of them) and other property the rent payable under his tenancy or any superior or reversionary tenancy, then, subject to section 115 of the County Courts Act 1959 and to section 21 below, the apportionment shall be made by the county court.

(4) Where it is made to appear to the court that the landlord or the tenant has been guilty of any unreasonable delay or default in the performance of obligations arising from a tenant's notice of his desire to have the freehold or an extended lease under this Part of this Act, then (without prejudice to any right to damages) the court may—

(a) by order revoke or vary, and direct repayment of sums paid under, any provision made by a previous order as to payment of the costs of proceedings in the court in relation to the matter, or, where costs have not been awarded, award costs;

(b) certify particulars of the delay or default to the Lands Tribunal with a view to enabling the Tribunal to exercise a like discretion in relation to costs of proceedings before the Tribunal.

(5) Where a person gives notice of his desire to have the freehold or to have an extended lease of a house and premises under this Part of this Act, and the notice either is set aside by the court or withdrawn, or ceases to have effect, or would, if valid, cease to have effect, then if it is made to appear to the court—

(a) that the notice was not given in good faith; or

(b) that the person giving the notice attempted in any material respect to support it by misrepresentation or the concealment of material facts;

the court may, on the application of the landlord, order that person to pay to the landlord such sum as appears sufficient as compensation for damage or loss sustained by the landlord as the result of the giving of the notice.

(6) In any case where under subsection (5) above the court has power, on the application of the landlord, to order a person to make a payment to the landlord, the court (whether or not it makes an order under that subsection) may, on the application of the landlord, order that any further notice given by that person under this Part of this Act of his desire to have the freehold or an extended lease of the same house or any part of it, with or without other property, shall be void if given within the five years beginning with the date of the order.

(7) Subsection (2)(c) above shall not prevent the bringing of proceedings in a court other than the county court where the claim is for damages or pecuniary compensation only.

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Marginal Citations
M30 1959 c. 22.

21 Jurisdiction of Lands Tribunal.

(1) The following matters shall, in default of agreement, be determined by **[**[F93]a leasehold valuation tribunal**]** namely,—

(a) the price payable for a house and premises under section 9 above;

(b) the amount of the rent to be payable (whether originally or on a revision) for a house and premises in accordance with section 15(2);

[[F94](ba) the amount of any costs payable under section 9(4) or 14(2);**]**

(c) the amount of any compensation payable to a tenant under section 17 or 18 for the loss of a house and premises.

[[F95](ca) the amount of any compensation payable under section 27A;**]**

[[F96](1A) An application to a leasehold valuation tribunal under subsection (1) above must **[**[F97]comply with any requirements imposed by regulations under subsection (4A)(a) or (b) below**]**

(1B) No application may be made to a leasehold valuation tribunal under subsection (1) above to determine the price for a house and premises unless either—

(a) the landlord has informed the tenant of the price he is asking; or

(b) two months have elapsed without his doing so since the tenant gave notice of his desire to have the freehold under this Part of this Act.**]**

(2) Notwithstanding section 20(2) or (3) above, **[**[F98]a leasehold valuation tribunal**]** shall have jurisdiction, either by agreement or in a case where an application is made to **[**[F98]a tribunal**]** under subsection (1) above with reference to the same transaction,—

(a) to determine what provisions ought to be contained in a conveyance in accordance with section 10 or 29(1) of this Act, or in a lease granting a new tenancy under section 14; or

(b) to apportion between the house and premises (or part of them) and other property the rent payable under any tenancy; or

(c) to determine the amount of a sub-tenant's share under Schedule 2 to this Act in compensation payable to a tenant under section 17 or 18.

(3) Where, after an application has been made to the court with respect to any matter falling within the jurisdiction of **[**[F99]a leasehold valuation tribunal**]** under subsection (2) above, an application is made to **[**[F99]a tribunal**]** under subsection (1) and it appears to the court convenient that the questions arising on the two applications should be disposed of together, the court may by order transfer to **[**[F99]a leasehold valuation tribunal**]** the proceedings on the application to the court.

[[F100](4) Without prejudice to the generality of **[**[F101]section 75 of the County Courts Act 1984**]** or section 74 of the [M31]Rent Act 1977, the powers thereby conferred to make rules of procedure shall extend to prescribing the procedure consequent on any such transfer.**]**

[[F102](4A) The Secretary of State may make regulations prescribing—

(a) the form of any application under subsection (1) above; and

(b) the particulars which it must contain;

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and any such regulations shall be made by statutory instrument subject to annulment in pursuance of a resolution of either House of Parliament.**]**

(5) . . . . . [F103]

Textual Amendments

F93 Words substituted by Housing Act 1980 (c. 51), **Sch. 22 para. 8(1)**
F94 S. 21(1)(ba) inserted (1.10.1996) by 1996 c. 52, **s. 115**; S.I. 1996/2212, **arts. 1(2)**, 2(2) (with Sch.)
F95 S. 21(1)(ca) inserted (1.10.1996) by 1996 c. 52, s. 116, **Sch. 11 para. 1(2)**; S.I. 1996/2212, **arts. 1(2)**, 2(2) (with Sch.)
F96 S. 21(1A)(1B) inserted by Housing Act 1980 (c. 51), **Sch. 22 para. 8(2)**
F97 Words in s. 21(1A) substituted (2.9.1993) by 1993 c. 28, s. 187(1), **Sch. 21 para. 4**; S.I. 1993/2134, **art. 3**
F98 Words substituted by Housing Act 1980 (c. 51), **Sch. 22 para. 8(3)**
F99 Words substituted by Housing Act 1980 (c. 51), **Sch. 22 para. 8(4)**
F100 S. 21(4) substituted by Housing Act 1980 (c. 51), **Sch. 22 para. 8(5)**
F101 Words substituted by County Courts Act 1984 (c. 28, SIF 34), s. 148(1), **Sch. 2 para. 31**
F102 S. 21(4A) inserted by Housing Act 1980 (c. 51), **Sch. 22 para. 8(6)**
F103 S. 21(5) repealed by Housing Act 1980 (c. 51), **Sch. 26**

Modifications etc. (not altering text)

C12 S. 21(1)–(3) amended by Housing Act 1980 (c. 51), **s. 142**

Marginal Citations

M31 1977 c. 42.

22 Validity of tenants' notices, effect on Landlord and Tenant Act 1954 and on notices to quit etc., and procedure generally.

(1) The provisions of Schedule 3 to this Act shall have effect—

(a) to exclude a tenant's right to acquire the freehold or an extended lease under this Part of this Act if a notice of his desire to have it is given too late; and

(b) to make a notice of a person's desire to have the freehold or an extended lease under this Part of this Act effectual where apart from the notice the tenancy would or might terminate by forfeiture or otherwise; and

(c) for adapting the procedure under Parts I and II of the [M32]Landlord and Tenant Act 1954, and for relating to one another proceedings under that Act and proceedings under this Part of this Act; and

[[F104](cc) for adapting the procedure under Schedule 10 to the Local Government and Housing Act 1989, and for relating to one another proceedings under that Schedule and proceedings under this Part of this Act; and**]**

(d) generally for regulating the procedure under this Part of this Act.

(2) Where a tenant having a right under this Part of this Act to acquire the freehold or an extended lease gives the landlord notice in accordance with this Part of this Act of his desire to have it, then except as otherwise provided by this Act the procedure for giving effect to the notice, and the rights and obligations of all parties in relation to the investigation of title and other matters arising in giving effect to the notice, shall be such as may be prescribed by regulations made by the Lord Chancellor by statutory instrument (which shall be subject to annulment in pursuance of a resolution of either

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House of Parliament), and subject to or in the absence of provision made by any such regulations as regards any matter shall be as nearly as may be the same as in the case of a contract of sale or leasing freely negotiated between the parties.

(3) In relation to a claim to acquire the freehold, regulations under subsection (2) above may include provision—

(a) for a sum on account of the price payable for the house and premises and landlord's costs to be deposited with the landlord or with some person as his agent or as stakeholder, and for the return or forfeiture in any prescribed circumstances of the whole or part of the sum deposited;

(b) for enabling or requiring the tenant in any prescribed circumstances, instead of continuing to pay rent under the tenancy, to pay sums representing interest on the price payable or, at his option, either to pay such sums as aforesaid or to pay or deposit the price payable or the balance of it;

(c) for any matters incidental to or arising out of the matters mentioned above;

and in relation to any claim the regulations may provide for discharging the landlord or the tenant by reason of the other's default or delay from the obligations arising out of the claim.

(4) In the case of a claim to acquire the freehold, subsection (2) above shall not be taken in any case as applying forms prescribed under section 46 of the [M33]Law of Property Act 1925 for contracts entered into by correspondence; but, without prejudice to the generality of that subsection section 49 (which provides for the determination of questions arising between vendor and purchaser) shall apply.

(5) Section 66 of the [M34]Landlord and Tenant Act 1954 (which requires the prescribed form for a notice to be prescribed by regulations of the Lord Chancellor, and makes provisions as to the contents of prescribed forms and as to the service of notices) shall have effect as if any reference therein to that Act were a reference also to this Part of this Act.

Textual Amendments

F104 S. 22(1)(cc) inserted by Local Government and Housing Act 1989 (c. 42, SIF 75:1), s. 194(1), **Sch. 11 para. 11**

Marginal Citations

M32 1954 c. 56.
M33 1925 c. 20.
M34 1954 c. 56.

Supplementary

23 Agreements excluding or modifying rights of tenant.

(1) Except as provided by this section, any agreement relating to a tenancy (whether contained in the instrument creating the tenancy or not and whether made before the creation of the tenancy or not) shall be void in so far as it purports to exclude or modify any right to acquire the freehold or an extended lease or right to compensation under this Part of this Act, or provides for the termination or surrender of the tenancy in the

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event of a tenant acquiring or claiming any such right or for the imposition of any penalty or disability on the tenant in that event.

(2) Subsection (1) above shall not be taken to preclude a tenant from surrendering his tenancy, and shall not—

(a) invalidate any agreement for a tenant to acquire an interest superior to his tenancy or an extended lease on terms different from those provided for by this Part of this Act; or

(b) where a tenant has given notice of his desire to have the freehold or an extended lease under this Part of this Act, invalidate any agreement between the landlord and the tenant that that notice shall cease to be binding or any provision of such an agreement excluding or restricting for a period not exceeding **[**[F105]twelve months**]** the right to give a further notice of either kind with respect to the house or any part of it; or

(c) where a tenant's right to compensation has accrued, invalidate any agreement as to the amount of the compensation.

(3) Where—

(a) a person, being entitled as tenant of a house to acquire the freehold or an extended lease under this Part of this Act, enters into an agreement without the prior approval of the court for the surrender of his tenancy, or for the acquisition by him of an interest superior to his tenancy or of any extended lease; or

(b) a tenancy having been extended under this Part of this Act, the tenant, on the landlord claiming possession for purposes of redevelopment, enters into an agreement without the prior approval of the court for the surrender of the tenancy;

then on the application of the tenant the county court or any court in which proceedings are brought against him on the agreement may, if in the opinion of the court he is not adequately recompensed under the agreement for his rights under this Part of this Act, set aside or vary the agreement and give such other relief as appears to the court to be just, having regard to the situation and conduct of the parties.

(4) Where a tenant of a house is under this Part of this Act entitled to acquire the freehold or an extended lease, or entitled to the benefit of a previous tenant's notice of his desire to have the freehold or an extended lease, there may with the approval of the court be granted to him in satisfaction of that right a new tenancy on such terms as may be approved by the court; and, subject to **[**[F106]section 36 of the Charities Act 1993**]** and to section 31 below, a tenancy may be so granted by the landlord, and shall be binding on persons entitled to any interest in or charge on the landlord's estate, notwithstanding that it would not apart from this provision be authorised as against any such persons and notwithstanding any restriction imposed by statute or otherwise on the landlord's powers of leasing:

Provided that where the existing tenancy is granted after the commencement of this Part of this Act (whether or not it is, by virtue of section 3(3) above, to be treated for other purposes as forming a single tenancy with a previous tenancy) and, the grant being subsequent to the creation of a charge on the landlord's estate, the existing tenancy is not binding on the persons interested in the charge, a tenancy so granted shall not by virtue of this subsection be binding on those persons.

(5) Where a tenancy is granted by virtue of subsection (4) above,—

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(a) the terms of the new tenancy may exclude any right to acquire the freehold under this Part of this Act; and

(b) **[**[F107]section 9(1) and (1A) above,**]** section 14(5) and (6) above and, except in so far as provision is made to the contrary by the terms of the new tenancy, section 16(1) to (6) and section 17(1) to (3) (together with Schedule 2 to this Act and, so far as relevant, subsections (1) to (3) above) shall apply as if the new tenancy were granted by way of extension under this Part of this Act.

(6) Where an instrument extending a tenancy at a low rent, or granting a further tenancy at a low rent in substitution for or in continuance of such a tenancy, contains a statement to the effect that by virtue of subsection (4) above the tenancy is being or has previously been extended in satisfaction of the right to an extended lease under section 14 above, the statement shall be conclusive in favour of any person not being a party to the instrument, unless the statement appears from the instrument to be untrue.

(7) Any person who—

(a) includes or causes to be included in an instrument a statement to the effect mentioned in subsection (6) above, knowing the statement to be untrue; or

(b) executes, or with intent to deceive makes use of, any instrument, knowing that it contains such a statement and that the statement is untrue;

shall be liable on conviction on indictment to imprisonment for a term not exceeding two years, or on summary conviction to imprisonment for a term not exceeding three months or to a fine not exceeding one hundred pounds or to both.

Textual Amendments

F105 Words in s. 23(2)(b) substituted (26.7.2002 for E. and 1.1.2003 for W.) by 2002 c. 15, **s. 139(3)(b)**; S.I. 2002/1912, **art. 2(b)(i)** (subject to transitional provisions and savings in Sch. 2 of the commencing S.I.); S.I. 2002/3012, **art. 2(b)(i)** (subject to transitional provisions and savings in Sch. 2 of the commencing S.I.)

F106 Words in s. 23(4) substituted (1.8.1993) by 1993 c. 10, s. 98(1), **Sch. 6 para. 8**

F107 Words inserted by Housing and Planning Act 1986 (c. 63, SIF 75:1), **s. 23(2)(3)**

24 Application of price or compensation received by landlord, and charge of betterment levy on enfranchisement.

(1) Any sum received by the landlord by way of the price payable for a house and premises under section 9 above, or by way of compensation under any provision of this Part of this Act providing for compensation to be recovered by or awarded to a landlord,—

(a) where the interest of the landlord is **[**[F108]subject to a trust of land**]** shall be dealt with as if it were proceeds of sale arising under the trust; and

(b) where the landlord is a university or college to which the [M35]Universities and College Estates Act 1925 applies, shall be dealt with as if it were an amount payable as consideration on a sale effected under that Act.

[F109](2) . . . . . .

Textual Amendments

F108 Words in s. 24(1)(a) substituted (1.1.1997) by 1996 c. 47, s. 25(1), **Sch. 3 para. 10(b)** (with ss. 24(2), 25(4)(5)); S.I. 1996/2974, **art. 2**

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F109 S. 24(2) repealed (19.11.1998) by 1998 c. 43, s. 1(1), **Sch. 1 Pt. IV** Group 2

Marginal Citations
M35 1925 c. 24.

25 Mortgagee in possession of landlord's interest.

(1) Where a landlord's interest is subject to a mortgage and the mortgagee is in possession, then subject to the provisions of this section all such proceedings arising out of a person's notice of his desire to have the freehold or an extended lease under this Part of this Act as would apart from this provision be taken by or in relation to the landlord shall, as regards his interest, be conducted by and through the mortgagee as if he were the landlord, and any conveyance to be executed under section 8 of this Act or lease to be executed under section 14 shall, if it requires execution by the landlord, either be executed by the landlord by the direction of the mortgagee or be executed by the mortgagee in the name and on behalf of the landlord; but this subsection shall not affect the operation in relation to the mortgage of sections 12 and 13 above.

(2) Where a landlord's interest is subject to a mortgage and the mortgagee is in possession, then (without prejudice to subsection (1) above) any application under section 17 above shall be made by the mortgagee as if he were the landlord, and that section and Schedule 2 to this Act shall apply accordingly.

(3) Any compensation paid by a mortgagee in accordance with section 17 above (whether possession is obtained under that section or without an application thereunder) shall be treated as if it were secured by the mortgage, with the like priority and with interest at the same rate as the mortgage money, so however that (without prejudice to the recovery of interest) the amount shall not be recoverable from the mortgagor personally.

(4) Where a mortgagee is by virtue of this section acting as landlord and any case arises in which compensation may be recovered by or awarded to a landlord, compensation may be recovered by or awarded to the mortgagee accordingly, and shall be dealt with as if it were proceeds of sale of property subject to the mortgage.

(5) Where a landlord's interest is subject to a mortgage, and a receiver appointed by the mortgagee or by the court is in receipt of the rents and profits,—
   (a) the landlord shall not make any application under section 17 or 18 above without the consent of the mortgagee; and
   (b) the mortgagee may by written notice given to the landlord require that this section shall apply, either generally or so far as relates to section 17 above, as if he were a mortgagee in possession.

(6) In this section "mortgage" includes any charge or lien, and "mortgagor" and "mortgagee" shall be construed accordingly.

26 Person to act where landlord is custodian trustee or under disability.

(1) Where the interest of a landlord in any property is vested in a person as custodian trustee, the managing trustees or committee of management shall be deemed to be the landlord for the purposes of this Part of this Act and the interest be deemed to be vested in them, except as regards the execution of any instrument disposing of or affecting that interest.

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(2) Where a landlord is incapable by reason of mental disorder within the meaning of the **[**[F110]Mental Health Act 1983**]** of managing and administering his property and affairs, his receiver **[**[F110]appointed under Part VII of the said Act of 1983 or Part VIII of the Mental Health Act 1959**]** or (if no such receiver is acting for him) any person authorised in that behalf shall, under an order of the authority **[**[F110]having jurisdiction under Part VII of the said Act of 1983**]**, take his place as landlord for purposes of this Part of this Act.

Textual Amendments

F110 Words substituted by Mental Health Act 1983 (c. 20, SIF 85), s. 148, **Sch. 4 para. 22**

27 Enfranchisement where landlord cannot be found.

(1) Where a tenant of a house having a right under this Part of this Act to acquire the freehold is prevented from giving notice of his desire to have the freehold because the person to be served with the notice cannot be found, or his identity cannot be ascertained, then on an application made by the tenant the High Court may, subject to and in accordance with the provisions of this section, make such order as the Court thinks fit with a view to the house and premises being vested in him, his executors, administrators or assigns for the like estate and on the like terms (so far as the circumstances permit) as if he had at the date of his application to the High Court given notice of his desire to have the freehold.

(2) Before making any such order the High Court may require the applicant to take such further steps by way of advertisement or otherwise as the Court thinks proper for the purpose of tracing the landlord; and if after an application is made to the High Court and before the house and premises are vested in pursuance of the application the landlord is traced, then no further proceedings shall be taken with a view to the house and premises being so vested, but subject to subsection (7) below—

(a) the rights and obligations of all parties shall be determined as if the applicant had, at the date of the application, duly given notice of his desire to have the freehold; and

(b) the High Court may give such directions as the Court thinks fit as to the steps to be taken for giving effect to those rights and obligations, including directions modifying or dispensing with any of the requirements of this Act or of regulations made under this Act.

(3) Where a house and premises are to be vested in a person in pursuance of an application under this section, then on his paying into the Supreme Court the appropriate sum there shall be executed by such person as the High Court may designate a conveyance in a form approved by the High Court and containing such provisions as may be so approved for the purpose of giving effect so far as possible to the requirements of section 10 above; and that conveyance shall be effective to vest in the person to whom the conveyance is made the property expressed to be conveyed, subject as and in the manner in which it is expressed to be conveyed.

(4) For the purpose of any conveyance to be executed in accordance with subsection (3) above, any question as to the property to be conveyed and the rights with or subject to which it is to be conveyed shall be determined by the High Court, but it shall be assumed (unless the contrary is shown) that the landlord has no interest in property

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other than the property to be conveyed and, for the purpose of excepting them from the conveyance, any underlying minerals.

(5) The appropriate sum to be paid into the Supreme Court in accordance with subsection (3) above shall be such amount as a surveyor selected by the President of the Lands Tribunal may certify to be at a fair valuation the price payable in accordance with section 9 above, together with the amount or estimated amount remaining unpaid (as determined by the High Court) of any pecuniary rent payable for the house and premises up to the date of the conveyance.

(6) Where a house and premises are vested in a person in accordance with this section, the payment into the Supreme Court of the appropriate sum shall be taken to have satisfied any claims against the tenant, his executors, administrators or assigns in respect of the price payable under this Part of this Act for the acquisition of the freehold in the house and premises.

(7) An application under this section may be withdrawn at any time before execution of a conveyance under subsection (3) above and, after it is withdrawn, subsection (2)(a) shall not apply; but where any step is taken (whether by the landlord or the tenant) for the purpose of giving effect to subsection (2)(a) in the case of any application, the application shall not afterwards be withdrawn except with the landlord's consent or by leave of the High Court, and the High Court shall not give leave unless it appears to the Court just to do so by reason of matters coming to the knowledge of the applicant in consequence of the landlord being traced.

(8) A conveyance executed under subsection (3) above shall have effect as provided by that subsection notwithstanding any interest of the Crown in the property expressed to be conveyed.

[[F111]27A Compensation for postponement of termination in connection with ineffective claims.

(1) This section applies where, on or after 15th January 1999—
   (a) a tenant of any property makes a claim to acquire the freehold or an extended lease of it, and
   (b) the claim is not made at least two years before the term date of the tenancy in respect of which the claim is made ("the existing tenancy").

(2) The tenant shall be liable to pay compensation if the claim is not effective and—
   (a) the making of the claim caused a notice served under paragraph 4(1) of Schedule 10 to the [M36]Local Government and Housing Act 1989 to cease to have effect and the date on which the claim ceases to have effect is later than four months before the termination date specified in the notice,
   (b) the making of the claim prevented the service of an effective notice under paragraph 4(1) of Schedule 10 to the Local Government and Housing Act 1989 (but did not cause a notice served under that provision to cease to have effect) and the date on which the claim ceases to have effect is a date later than six months before the term date of the tenancy, or
   (c) the existing tenancy is continued under paragraph 3(1) of Schedule 3 to this Act by virtue of the claim.

(3) Compensation under subsection (2) above shall become payable at the end of the appropriate period and be the right of the person who is the tenant's immediate landlord at that time.

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(4) The amount which the tenant is liable to pay under subsection (2) above shall be equal to the difference between—

(a) the rent for the appropriate period under the existing tenancy, and

(b) the rent which might reasonably be expected to be payable for that period were the property to which the existing tenancy relates let for a term equivalent to that period on the open market by a willing landlord on the following assumptions—

(i) that no premium is payable in connection with the letting,

(ii) that the letting confers no security of tenure, and

(iii) that, except as otherwise provided by this paragraph, the letting is on the same terms as the existing tenancy.

(5) For the purposes of subsection (2) above, a claim to acquire the freehold or an extended lease is not effective if it ceases to have effect for any reason other than—

(a) the acquisition in pursuance of the claim of the interest to which it relates, or

(b) the lapsing of the claim under any provision of this Act excluding the tenant's liability for costs.

(6) For the purposes of subsections (3) and (4) above, the appropriate period is—

(a) in a case falling within paragraph (a) of subsection (2) above, the period—

(i) beginning with the termination date specified in the notice mentioned in that paragraph, and

(ii) ending with the earliest date of termination which could have been specified in a notice under paragraph 4(1) of Schedule 10 to the [M37]Local Government and Housing Act 1989 served immediately after the date on which the claim ceases to have effect, or, if the existing tenancy is terminated before then, with the date of its termination;

(b) in a case falling within paragraph (b) of subsection (2) above, the period—

(i) beginning with the later of six months from the date on which the claim is made and the term date of the existing tenancy, and

(ii) ending six months after the date on which the claim ceases to have effect, or, if the existing tenancy is terminated before then, with the date of its termination; and

(c) in a case falling within paragraph (c) of subsection (2) above, the period for which the existing tenancy is continued under paragraph 3(1) of Schedule 3 to this Act.

(7) For the purposes of this section—

(a) references to a claim to acquire the freehold or an extended lease shall be taken as references to a notice of a person's desire to acquire it under Part I of this Act and as including a claim made by a tenant not entitled to acquire it, and

(b) references to the date on which a claim ceases to have effect shall, in relation to a notice which is not a valid notice, be taken as references to the date on which the notice is set aside by the court or withdrawn or would, if valid, cease to have effect, that date being taken, where the notice is set aside, or would (if valid) cease to have effect, in consequence of a court order, to be the date when the order becomes final.**]**

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Textual Amendments

F111 S. 27A inserted (1.10.1996) by 1996 c. 52, s. 116, **Sch. 11 para. 1(1)**; S.I. 1996/2212, **arts. 1(2)**, 2(2) (with Sch.)

Marginal Citations

M36 1989 c. 42.

M37 1989 c. 42.

[F112 27B Modification of section 27A where change in immediate reversion.

(1) Where a tenant's liability to pay compensation under section 27A above relates to a period during which there has been a change in the interest immediately expectant on the determination of his tenancy, that section shall have effect with the following modifications.

(2) For subsections (3) and (4) there shall be substituted—

(") Compensation under subsection (2) above shall become payable at the end of the appropriate period and there shall be a separate right to compensation in respect of each of the interests which, during that period, have been immediately expectant on the determination of the existing tenancy.

(4) Compensation under subsection (2) above shall—

(a) in the case of the interest which is immediately expectant on the determination of the existing tenancy at the end of the appropriate period, be the right of the person in whom that interest is vested at that time, and

(b) in the case of an interest which ceases during the appropriate period to be immediately expectant on the determination of the existing tenancy, be the right of the person in whom the interest was vested immediately before it ceased to be so expectant.

(4A) The amount which the tenant is liable to pay under subsection (2) above in respect of any interest shall be equal to the difference between—

(a) the rent under the existing tenancy for the part of the appropriate period during which the interest was immediately expectant on the determination of that tenancy, and

(b) the rent which might reasonably be expected to be payable for that part of that period were the property to which the existing tenancy relates let for a term equivalent to that part of that period on the open market by a willing landlord on the following assumptions—

(i) that no premium is payable in connection with the letting,

(ii) that the letting confers no security of tenure, and

(iii) that, except as otherwise provided by this paragraph, the letting is on the same terms as the existing tenancy."

(3) In subsection (6), for "(3) and (4)" there shall be substituted "(3) to (4A)".]

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Textual Amendments

F112 S. 27B inserted (1.10.1996) by 1996 c. 52, s. 116, **Sch. 11 para. 1(1)**; S.I. 1996/2212, **arts. 1(2)**, 2(2) (with Sch.)

Land held for public purposes, ecclesiastical land, etc.

28 Retention or resumption of land required for public purposes.

(1) Where the landlord of any property is a body to which this section applies, and a Minister of the Crown certifies that the property will in ten years or less be required for relevant development, then—

(a) a notice of a person's desire to have the freehold or an extended lease under this Part of this Act of a house comprised in the property shall be of no effect;

(b) if the tenancy of any such house has not been extended under this Part of this Act, but the tenant, being entitled to acquire the freehold or an extended lease thereunder, either—

(i) before a copy of the certificate has been served on him, has given notice of his desire to have the freehold or an extended lease; or

(ii) not later than two months after a copy of the certificate is served on him, gives the landlord written notice, in the prescribed form, claiming to be so entitled;

then section 17 above shall apply as if the tenancy had been so extended;

(c) for the purposes of any application by the landlord under section 17 above in relation to property comprised in the certificate (whether the application is made by virtue of paragraph (b) above or otherwise), the certificate shall be conclusive that the ground specified in section 17(1) is established.

(2) Where by virtue of subsection (1)(b) above a tenancy of any property is to be treated as having been extended, then as regards that property the tenancy shall not terminate either by effluxion of time or in pursuance of any notice given by the landlord or the tenant or by the termination of a superior tenancy.

(3) In the case of a tenancy to which Part II of the [M38]Landlord and Tenant Act 1954 applies, subsections (1) and (2) above shall have effect where a certificate is given under section 57 of that Act as they have effect where a certificate is given under this section; but where by virtue of subsection (1)(b) above a tenancy is to be treated as having been extended, no compensation shall be payable under section 59 of that Act in respect of the tenancy or any immediate or derivative sub-tenancy.

(4) A Minister shall not give a certificate under this section with respect to any house, unless the landlord has given to the tenant of the house written notice stating—

(a) that the question of giving such a certificate is under consideration by that Minister; and

(b) that if within twenty-one days of the giving of the notice the tenant makes to that Minister representations in writing with respect to that question, they will be considered before the question is determined;

and if the tenant makes any such representations within those twenty-one days the Minister shall consider them before determining whether to give the certificate.

(5) This section applies—

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(a) to any local authority, that is to say, the Mayor and commonalty and citizens of the City of London, . . . [F113] any county council, borough council or district council **[**[F114] . . . [F115], any joint authority established by Part IV of the Local Government Act 1985**]**[F116], the London Fire and Emergency Planning Authority,**]**any joint board in which all the constituent authorities are local authorities within this paragraph [F117]. . . **[**[F118]any police authority established under **[**[F119]section 3 of the Police Act 1996**]**[F120]and the Metropolitan Police Authority**]**; and**]** within the meaning of the [M39]Police Act 1964;

[[F121](aa) to the Broads Authority; and**]**

[[F122](ab) to any National Park authority; and**]**

(b) to the Commission for the New Towns and to any development corporation within the meaning of **[**[F123]the [M40]New Towns Act 1981**]**; and

[[F124](bb) to the Development Board for Rural Wales**]**;

(c) to any university body, that is to say, any university, university college or college of a university, and for this purpose "college of a university" includes, in the case of a university organised on a collegiate basis, a constituent college or other society recognised by the university and, in the case of London University, a college incorporated in the university or a school of the university; and

[[F125](d) to any **[**[F126]Health Authority, any Special Health Authority**]**[F127], any Primary Care Trust**]**and **[**[F128]any Strategic Health Authority,**]** any National Health Service trust; and**]**

(e) to any body corporate established by or under any enactment for the purpose of carrying on under national ownership any industry or part of an industry or undertaking; and

[[F129](ee) to the National Rivers Authority;**]**

(f) to any body not included above which is a harbour authority within the meaning of the [M41]Harbours Act 1964 . . . [F130], but in respect only of the body's functions as harbour authority . . . [F130].

[[F131](g) a housing action trust established under Part III of the Housing Act 1988.**]**

(6) In subsection (1) above "relevant development", in relation to any body to which this section applies, means development for purposes (other than investment purposes) of that body, but in relation to a local authority includes any development to be undertaken, whether or not by **[**[F132]that authority, in order to secure—

(a) the development or redevelopment of an area defined by a development plan under the Town and Country Planning Act 1990 as an area of comprehensive development; or

(b) the treatment as a whole, by development, redevelopment or improvement, or partly by one and partly by another method, of any area in which the property is situated**]**

However—

(a) the purposes of a county council or . . . [F133] council shall be taken to include the purposes of a police authority which is a committee of the council; and

(b) the purposes of a university body shall be taken to include the purposes of any related university body (a university and the colleges of that university within the meaning of subsection (5)(c) above being related to one another within the meaning of this paragraph); and

(c) **[**[F134]in the case of a **[**[F135]Strategic Health Authority,**]**[F136]Health Authority, Special Health Authority**]**[F137], Primary Care Trust**]**[F138] or National Health Service trust**]**,

the purposes of the **[**[F139M42]National Health Service Act 1977**]** shall be substituted for the purposes of the body.**]**

[[F140](6A) In subsections (5) and (6) above, any reference to a county council shall be read, in relation to Wales, as including a reference to a county borough council.**]**

(7) If it appears to the Minister of Housing and Local Government or to the Secretary of State that this section should apply to any body or description of bodies having functions of a public nature but not included above, he may by order direct that this section shall apply to that body or description of bodies.

(8) The power to make orders under subsection (7) above shall include power to vary or revoke any order made for the purposes of that subsection, and shall be exercisable by statutory instrument of which a draft shall be laid before Parliament.

Textual Amendments

F113 Words repealed by Local Government Act 1985 (c. 51, SIF 81:1), s. 102, **Sch. 17**

F114 Words inserted by Local Government Act 1985 (c. 51, SIF 81:1), s. 84, **Sch. 14 para. 43**

F115 Words repealed by Education Reform Act 1988 (c. 40, SIF 41:1), ss. 231(7), 235(6), 237, **Sch. 13 Pt. I**

F116 Words in s. 28(5)(a) inserted (3.7.2000) by 1999 c. 29, s. 328, **Sch. 29 Pt. I para. 8** (with Sch. 12 para. 9(1)); S.I. 2000/1094, **art. 4(a)(h)**

F117 Word in s. 28(5)(a) repealed (3.7.2000) by 1999 c. 29, s. 423, **Sch. 34 Pt. VII** (with Sch. 12 para. 9(1)); S.I. 2000/1648, art. 2, **Sch.**

F118 Words in s. 28(5)(a) substituted (1.10.1994 for certain purposes and otherwise 1.4.1995) by 1994 c. 29, s. 43, **Sch. 4 Pt. II para. 48**; S.I. 1994/2025, **art. 6**; S.I. 1994/3262, art. 4, **Sch. 1**

F119 Words in s. 28(5)(a) substituted (22.8.1996) by 1996 c. 16, ss. 103, 104(1), **Sch. 7 Pt. I para. 2(d)**

F120 Words in s. 28(5)(a) inserted (3.7.2000) by 1999 c. 29, s. 325, **Sch. 27 para. 21** (with Sch. 12 para. 9(1)); S.I. 2000/1648, art. 2, **Sch.**

F121 S. 28(5)(aa) inserted by Norfolk and Suffolk Broads Act 1988 (c. 4, SIF 81:1), ss. 21, 23(2), 27(2), **Sch. 6 para. 6**

F122 S. 28(5)(ab) inserted (23.11.1995) by 1995 c. 25, s. 78, **Sch. 10 para. 7** (with ss. 7(6), 115, 117, Sch. 8 para. 7); S.I. 1995/2950, **art. 2(1)**

F123 Words substituted by virtue of Interpretation Act 1978 (c. 30), **s. 17(2)** (*a*)

F124 S. 28(5) (*bb*) inserted by Development of Rural Wales Act 1976 (c. 75), **Sch. 7 para. 5(2)**

F125 S. 28(5) (*d*) substituted by National Health Service Reorganisation Act 1973 (c. 32), **Sch. 4 para. 111(1)**

F126 Words in s. 28(5)(d) substituted (1.4.1996) by 1995 c. 17, s. 2(1)(3), **Sch. 1 Pt. III para. 94** (with Sch. 2 paras. 6, 16)

F127 Words in s. 28(5)(d) inserted (8.2.2000) by S.I. 2000/90, art. 3, **Sch. 1 para. 7(a)**

F128 Words in s. 28(5)(d) inserted (1.10.2002) by S.I. 2002/2469, reg. 4, **Sch. 1 Pt. 1 para. 4(a)**

F129 S. 28(5)(ee) inserted by Water Act 1989 (c. 15, SIF 130), s. 190(1), **Sch. 25 para. 35** (with ss. 58(7), 101(1), 141(6), 160(1)(2)(4), 189(4)–(10), 190, 193(1), Sch. 25 para. 35, Sch. 26 paras. 3(1)(2), 17, 40(4), 57(6), 58)

F130 Words repealed by Water Act 1989 (c. 15, SIF 130), s. 190(3), **Sch. 27 Pt. I** (with ss. 58(7), 101(1), 141(6), 160(1)(2)(4), 189(4)–(10), 190, 193(1), Sch. 26 paras. 3(1)(2), 17, 40(4), 41(1), 57(6), 58)

F131 S. 28(5)(g) added by Housing Act 1988 (c. 50, SIF 61, 75:1), s. 140(1), **Sch. 17 para. 15**

F132 Words substituted by Planning (Consequential Provisions) Act 1990 (c. 11, SIF 123:1, 2), s. 4, **Sch. 2 para. 17(1)**

F133 Words repealed by Local Government Act 1972 (c. 70), **Sch. 30**

F134 S. 28(6) (*c*) substituted by National Health Service Reorganisation Act 1973 (c. 32), **Sch. 4 para. 111(2)**

F135 Words in s. 28(6)(c) inserted (1.10.2002) by S.I. 2002/2469, **reg. 4 Sch. 1 Pt. 1 para. 4(a)**

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F136 S. 28(6): words in para. (c) of the second sentence substituted (1.4.1996) by 1995 c. 17, s. 2(1)(3), **Sch. 1 Pt. III para. 94** (with Sch. 2 paras. 6, 16)
F137 Words in s. 28(6)(c) inserted (8.2.2000) by S.I. 2000/90, art. 3, **Sch. 1 para. 7(b)**
F138 Words substituted by National Health Service and Community Care Act 1990 (c. 19, SIF 113:2), s. 66(1), **Sch. 9 para. 9(b)**
F139 Words substituted by National Health Service Act 1977 (c. 49), s. 129, **Sch. 15 para. 42**
F140 S. 28(6A) inserted (1.4.1996) by 1994 c. 19, s. 22(2), **Sch. 8 para. 1(1)** (with ss. 54(5)(7), 55(5), Sch. 17 paras. 22(1), 23(2)); S.I. 1996/396, art. 3, **Sch. 1**

Modifications etc. (not altering text)
C13 S. 28(5)(*a*) amended by Local Government Act 1985 (c. 51, SIF 81:1), s. 84, **Sch. 13 para. 17**
C14 S. 28(5)(*a*) extended by S.I. 1985/1884, art. 10, **Sch. 3 para. 4**(*b*)
S. 28(5)(a) amended (1.4.1995) by S.I. 1995/401, art. 18, **Sch. para. 3**
S. 28(5)(a) extended (5.7.1994) by 1994 c. 19, ss. 39, 66(2)(b), **Sch. 13 para. 24(b)** (with ss. 54(5)(7), 55(5), Sch. 17 paras. 22(1), 23(2))
C15 Reference to Minister of Housing and Local Government to be construed as reference to Secretary of State: S.I. 1970/1681, **art. 6(3)**

Marginal Citations
M38 1954 c. 56.
M39 1964 c. 48.(**95**)
M40 1981 c. 64.
M41 1964 c. 40.
M42 1977 c. 49.

29 Reservation of future right to develop.

(1) Where a tenant of a house and premises acquires the freehold under this Part of this Act, the landlord being a local authority, there shall, if so required by the local authority, be included in the conveyance under section 8 above such covenants on the part of the tenant restricting the carrying out of development or clearing of land as are necessary to reserve the land for possible development by the authority.

(2) Where a tenant of a house and premises acquires an extended lease under this Part of this Act, the landlord being a local authority, such covenants as are mentioned in subsection (1) above shall, if so required by the local authority, be included in the instrument extending the lease under section 14 above and, if so included, then in the terms of any subsequent tenancy at a low rent which is by virtue of section 3(3) above to be treated (with or without any intervening tenancies) as a single tenancy with that under the extended lease.

(3) Where a covenant is entered into to give effect to subsection (1) or (2) above, it shall be expressed to be so entered into, and Part I of Schedule 4 to this Act shall have effect with respect to the operation and enforcement of any covenant so entered into.

(4) Where a tenant of a house and premises acquires the freehold or an extended lease under this Part of this Act, the landlord being a local authority, and afterwards the local authority or any other person acquires compulsorily any interest in the property, then for the purpose of assessing compensation in accordance with the [M43]Land Compensation Act 1961 no account shall be taken of any increase in the value of that interest which is attributable to the carrying out of development in contravention of a covenant entered into to give effect to subsection (1) or (2) above, or to any prospect of carrying out any such development; and any compensation payable to a tenant under

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section 17 above shall be assessed without regard to any increase in the value of his interest which under this subsection would be disregarded on a compulsory purchase of that interest.

(5) For purposes of this section "local authority" means a local authority as defined in section 28(5)(a) above.

(6) Subsections (1) to (4) above shall have effect in relation—

(a) to the Commission for the New Towns and to any development corporation within the meaning of **[**[F141]the New Towns Act 1981**]**; and

(b) to any university body as defined in section 28(5)(c) above;

as if any reference in those subsections or in Part I of Schedule 4 to this Act to a local authority were a reference to that Commission, corporation or university body; but a university body shall not require a covenant to be entered into under this section, unless they have first obtained the consent of the Secretary of State.

[F142](6A) . . . . . .

[[F143](6B) Where the landlord is a university body, the possible development for which land may be reserved by a covenant entered into to give effect to subsection (1) or (2) above includes development by a related university body (within the meaning of section 28(6)(b) above.**]**

[[F144](6C) Subsections (1) to (4) above shall have effect in relation to a housing action trust as if any reference in those subsections or in Part I of Schedule 4 to this Act to a local authority were a reference to the trust.**]**

(7) Part II of Schedule 4 to this Act shall have effect to enable property to be re-acquired compulsorily where it is subject to a covenant entered into to give effect to subsection (1) above with the Commission for the New Towns [F145]. . . or a university body.

(8) This section shall apply, with the necessary adaptations, where a new tenancy is granted in satisfaction of the right to an extended lease under this Part of this Act, as it applies where a lease is extended in accordance with this Part of this Act.

Textual Amendments

F141 Words substituted by virtue of Interpretation Act 1978 (c. 30), **s. 17(2)** (*a*)

F142 S. 29(6A) repealed (1.10.1998) by 1998 c. 38, s. 152, **Sch. 18 Pt. IV** (with ss. 137(1), 139(2), 141(1), 143(2)); S.I. 1998/2244, **art. 4**

F143 S. 29(6B) inserted by Housing Act 1980 (c. 51), **Sch. 21 para. 5**

F144 S. 29(6C) inserted by Housing Act 1988 (c. 50, SIF 61, 75:1), s. 140(1), **Sch. 17 para. 16**

F145 Words in s. 29(7) repealed (1.10.1998) by 1998 c. 38, s. 152, **Sch. 18 Pt. IV** (with ss. 137(1), 139(2), 141(1), 143(2)); S.I. 1998/2244, **art. 4**

Modifications etc. (not altering text)

C16 S. 29(5) amended by Local Government Act 1985 (c. 51, SIF 81:1), s. 84, **Sch. 13 para. 17**
S. 29(5) amended (1.4.1995) by S.I. 1995/401, art. 18, **Sch. para. 3**

Marginal Citations

M43 1961 c. 33.

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30 Reservation of right of pre-emption in new town or overspill area.

(1) Where a tenant of a house and premises acquires the freehold under this Part of this Act, the landlord being a body to which this section applies, there shall, if so required by the landlord, be included in the conveyance under section 8 above the following covenants on the part of the tenant, that is to say,—

(a) a covenant that no tenancy of the property comprised in the conveyance or any part of that property shall be granted except with the consent in writing of the landlord; and

(b) such covenant as appears to the landlord to be requisite for securing that, in the event of any proposal to sell that property or any part of it, the landlord will have a right of pre-emption at the price mentioned in subsection (4) below.

(2) Where a tenant of a house and premises acquires an extended lease under this Part of this Act, the landlord being a body to which this section applies, such covenants as are mentioned in subsection (1) above shall, if so required by the landlord, be included in the instrument extending te lease under section 14 above and, if so included, then in the terms of any subsequent tenancy at a low rent which is by virtue of section 3(3) above to be treated (with or without intervening tenancies) as a single tenancy with that under the extended lease.

(3) Where a covenant is entered into to give effect to subsection (1) or (2) above, it shall be expressed to be so entered into, and Part I of Schedule 4 to this Act shall have effect, with respect to the operation and enforcement of any covenant so entered into as it applies in the case of a covenant entered into with the same body to give effect to section 29(1) or (2) above.

(4) The price referred to in subsection (1)(b) above, in relation to an interest in any property, is a sum equal to (and, in default of agreement, to be determined in the like manner as) the compensation which would be payable for that interest if acquired by the execution, on such date as may be determined in accordance with the covenant, of a vesting declaration under Schedule 4 to this Act.

(5) Section 19 of the [M44]Landlord and Tenant Act 1927 (covenants not to assign etc. without licence or consent) shall not have effect in relation to any covenant entered into to give effect to subsection (2) above.

(6) This section shall apply, with the necessary adaptations, where a new tenancy is granted in satisfaction of the right to an extended lease under this Part of this Act, as it applies where a lease is extended in accordance with this Part of this Act.

(7) This section applies—

(a) to the Commission for the New Towns [F146]. . . and to a development corporation within the meaning of **[**[F147]the [M45]New Towns Act 1981**]**; and

(b) in respect of housing provided by them by virtue of section 5 of the [M46]Town Development Act 1952 (which authorises a council to exercise its powers for the purpose of relieving congestion or over-population outside their area), the council of any receiving district for purposes of that Act, . . . [F148]

Textual Amendments

F146 Words in s. 30(7) repealed (1.10.1998) by 1998 c. 38, s. 152, **Sch. 18 Pt. IV** (with ss. 137(1), 139(2), 143(2)); S.I. 1998/2244, **art. 4**

F147 Words substituted by virtue of Interpretation Act 1978 (c. 30), **s. 17(2)** (*a*)

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F148 Words repealed by Housing (Consequential Provisions) Act 1985 (c. 71, SIF 61), ss. 3, 5(2), Sch. 1 Pt. I, **Sch. 4**

Marginal Citations

M44 1927 c. 36.
M45 1981 c. 64.
M46 1952 c. 54.

31 Ecclesiastical property.

(1) The provisions of this section shall have effect as regards the operation of this Part of this Act on tenancies (including subtenancies) of ecclesiastical property, that is to say, property belonging to a capitular body within the meaning of the [M47]Cathedrals Measure 1963 or belonging to **[**[F149]a diocesan board of finance as diocesan glebe land**]**; and in this section "ecclesiastical landlord" means the capitular body or **[**[F149]diocesan board of finance**]** having an interest as landlord in ecclesiastical property.

(2) In relation to an interest of an ecclesiastical landlord, the consent of the Church Commissioners shall be required to sanction—

(a) the provisions to be contained in a conveyance in accordance with section 10 above, or in a lease granting a new tenancy under section 14, and the price or rent payable, except as regards matters determined by the court **[**[F150]a leasehold valuation tribunal**]** or the Lands Tribunal;

(b) any exercise of the ecclesiastical landlord's rights under section 17 above, except as aforesaid, and any agreement for the payment of compensation to a tenant in accordance with that section without an application thereunder;

(c) any grant of a tenancy in satisfaction of the right to an extended lease under this Part of this Act;

and the Church Commissioners shall be entitled to appear and be heard in any proceedings under this Part of this Act to which an ecclesiastical landlord is a party or in which he is entitled to appear and be heard.

(3) Where the ecclesiastical property forms part of the endowment of a cathedral church, any sum received by the capitular body by way of the price payable for the property under section 9 above, or by way of compensation under any provision of this Part of this Act providing for compensation to be recovered by or awarded to a landlord, shall be treated as part of that endowment; and the powers conferred by sections 21 and 23 of the [M48]Cathedrals Measure 1963 in relation to the investment in the acquisition of land of moneys forming part of the endowment of a cathedral church shall extend to the application of any such moneys in the payment of compensation in accordance with section 17 above (whether possession is obtained under that section or without an application thereunder).

(4) In the case of ecclesiastical property belonging to **[**[F151]a diocesan board of finance**]**—

(a) no consent or concurrence other than that of the Church Commissioners under subsection (2) above shall be required to a disposition under this Part of this Act of the **[**[F152]interest of the diocesan board of finance**]** (including a grant of a tenancy in satisfaction of the right to an extended lease);

(b) . . . . . [F153]

(c) any sum receivable by the **[**[F154]diocesan board of finance**]** by way of the price payable for the property under section 9 above, or of any such compensation as is mentioned in subsection (3) above, shall be paid to the

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Church Commissioners to be applied for purposes for which the proceeds of a sale by agreement of the property would be applicable under any enactment or Measure authorising such a sale or disposing of the proceeds of such a sale, and any sum required for the payment of compensation as mentioned in subsection (3) above may be paid by the Church Commissioners on behalf of the incumbent out of any moneys in their hands;

(d) . . . . . [F155]

[[F156](5) In this section "diocesan board of finance" and "diocesan glebe land" have the same meaning as in the Endowments and Glebe Measure 1976.**]**

Textual Amendments

F149 Words substituted by Church of England (Legal Aid and Miscellaneous Provisions) Measure 1988 (No. 1, SIF 21:1), **s. 10**(*a*)

F150 Words inserted by Housing Act 1980 (c. 51), **Sch. 23 para. 9**

F151 Words substituted by Church of England (Legal Aid and Miscellaneous Provisions) Measure 1988 (No. 1, SIF 21:1), **s. 10**(*b*)(i)

F152 Words substituted by Church of England (Legal Aid and Miscellaneous Provisions) Measure 1988 (No. 1, SIF 21:1), **s. 10**(*b*)(ii)

F153 S. 31(4)(*b*) repealed (provinces of Canterbury and York) by Church of England (Legal Aid and Miscellaneous Provisions) Measure 1988 (No. 1, SIF 21:1), **s. 10**(*b*)(iii)

F154 Words substituted by Church of England (Legal Aid and Miscellaneous Provisions) Measure 1988 (No. 1, SIF 21:1), **s. 10**(*b*)(iv)

F155 S. 31(4)(*d*) repealed (provinces of Canterbury and York) by Church of England (Legal Aid and Miscellaneous Provisions) Measure 1988 (No. 1, SIF 21:1), **s. 10**(*b*)(v)

F156 S. 31(5) substituted (provinces of Canterbury and York) by Church of England (Legal Aid and Miscellaneous Provisions) Measure 1988 (No. 1, SIF 21:1), **s. 10**(*c*)

Modifications etc. (not altering text)

C17 S. 31 amended (30.6.1999 with application as mentioned) by 1999 Measure No. 1, **ss. 36(2)-(6)**, 38(2)(3)

Marginal Citations

M47 1963 No. 2.

M48 1963 No. 2.

32 Saving for National Trust.

This Part of this Act shall not prejudice the operation of section 21 of the [M49]National Trust Act 1907, and accordingly a person shall not be entitled under this Part of this Act to acquire the freehold of property if an interest in the property is under that section vested inalienably in the National Trust for Places of Historic Interest or Natural Beauty.

Marginal Citations

M49 1907 c. cxxvi.

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[32A [F157]Property transferred for public benefit etc.

(1) A notice of a person's desire to have the freehold of a house and premises under this Part shall be of no effect if at the relevant time the whole or any part of the house and premises is qualifying property and either—

(a) the tenancy was created after the commencement of Chapter III of Part I of the Leasehold Reform, Housing and Urban Development Act 1993; or

(b) (where the tenancy was created before that commencement) the tenant would not be entitled to have the freehold if either or both of sections 1A and 1B above were not in force **[**[F158]or if section 1AA above were not in force**]]**.

(2) For the purposes of this section the whole or any part of the house and premises is qualifying property if—

(a) it has been designated under section 31(1)(b), (c) or (d) of the Inheritance Tax Act 1984 (designation and undertakings relating to conditionally exempt transfers), whether with or without any other property, and no chargeable event has subsequently occurred with respect to it; or

(b) an application to the Board for it to be so designated is pending; or

(c) it is the property of a body not established or conducted for profit and a direction has been given in relation to it under section 26 of that Act (gifts for public benefit), whether with or without any other property; or

(d) an application to the Board for a direction to be so given in relation to it is pending.

(3) For the purposes of subsection (2) above an application is pending as from the time when it is made to the Board until such time as it is either granted or refused by the Board or withdrawn by the applicant; and for this purpose an application shall not be regarded as made unless and until the applicant has submitted to the Board all such information in support of the application as is required by the Board.

(4) A notice of a person's desire to have the freehold of a house and premises under this Part shall cease to have effect if—

(a) before completion of the conveyance in pursuance of the tenant's notice, the whole or any part of the house and premises becomes qualifying property; and

(b) the condition set out in subsection (1)(a) or (as the case may be) subsection (1)(b) above is satisfied.

(5) Where a tenant's notice ceases to have effect by virtue of subsection (4) above—

(a) section 9(4) above shall not apply to require the tenant to make any payment to the landlord in respect of costs incurred by reason of the notice; and

(b) the person who applied or is applying for designation or a direction shall be liable to the tenant for all reasonable costs incurred by the tenant in connection with his claim to acquire the freehold of the house and premises.

(6) Where it is claimed that subsection (1) or (4) above applies in relation to a tenant's notice, the person making the claim shall, at the time of making it, furnish the tenant with evidence in support of it; and if he fails to do so he shall be liable for any costs which are reasonably incurred by the tenant in consequence of the failure.

(7) In subsection (2) above—

(a) paragraphs (a) and (b) apply to designation under section 34(1)(a), (b) or (c) of the Finance Act 1975 or section 77(1)(b), (c) or (d) of the Finance Act 1976 as

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they apply to designation under section 31(1)(b), (c) or (d) of the Inheritance Tax Act 1984; and

(b) paragraphs (c) and (d) apply to a direction under paragraph 13 of Schedule 6 to the Finance Act 1975 as they apply to a direction under section 26 of that Act of 1984.

(8) In this section—

"the Board" means the Commissioners of Inland Revenue;

"chargeable event" means—

(a) any event which in accordance with any provision of Chapter II of Part II of the Inheritance Tax Act 1984 (exempt transfers) is a chargeable event, including any such provision as applied by section 78(3) of that Act (conditionally exempt occasions); or

(b) any event which would have been a chargeable event in the circumstances mentioned in section 79(3) of that Act (exemption from ten-yearly charge).

Textual Amendments

F157 S. 32A inserted (1.11.1993 subject as mentioned in S.I. 1993/2134 art. 5(b), Sch. 1 para. 1) by 1993 c. 28, **s. 68**; S.I. 1993/2134, **art. 5(b)**

F158 Words in s. 32A(1)(b) inserted (1.4.1997) by 1996 c. 52, s. 106, **Sch. 9 para. 2(1)(6)**; S.I. 1997/618, **art. 2(1)** (with Sch.)

33 Crown land.

(1) In the case of a tenancy from the Crown this Part of this Act shall apply in favour of the tenant as in the case of any other tenancy if there has ceased to be a Crown interest in the land, and as against a landlord holding a tenancy from the Crown shall apply also if either—

(a) his sub-tenant is seeking an extended lease and the landlord, or a superior landlord holding a tenancy from the Crown, has a sufficient interest to grant it and is entitled to do so without the concurrence of the appropriate authority; or

(b) the appropriate authority notifies the landlord that as regards any Crown interest affected the authority will grant or concur in granting the freehold or extended lease.

(2) For purposes of this section "tenancy from the Crown" means a tenancy of land in which there is, or has during the subsistence of the tenancy been, a Crown interest superior to the tenancy, and "Crown interest" and "the appropriate authority" in relation to a Crown interest mean respectively—

(a) an interest comprised in the Crown Estate, and the Crown Estate Commissioners;

(b) an interest belonging to Her Majesty in right of the Duchy of Lancaster, and the Chancellor of the Duchy;

(c) an interest belonging to the Duchy of Cornwall, and such person as the Duke of Cornwall or the possessor for the time being of the Duchy appoints;

(d) any other interest belonging to a government department or held on behalf of Her Majesty for the purposes of a government department, and the Minister in charge of that department.

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(3) The restriction imposed by section 3(2) of the [M50]Crown Estate Act 1961 on the term for which a lease may be granted by the Crown Estate Commissioners shall not apply where the lease is granted by way of extension of a long tenancy at a low rent and it appears to the Crown Estate Commissioners that, if the tenancy were not a tenancy from the Crown, there would be a right to an extended lease under this Part of this Act.

(4) Where, in the case of land belonging to Her Majesty in right of the Duchy of Lancaster or to the Duchy of Cornwall, it appears to the appropriate authority that a tenant under a long lease at a low rent would, if the tenancy were not a tenancy from the Crown, be entitled to an extended lease under this Part of this Act, then a lease corresponding to that to which the tenant would be so entitled may be granted to take effect wholly or partly out of the Crown interest by the same person and with the same formalities as in the case of any other lease of such land.

(5) In the case of land belonging to the Duchy of Cornwall, the purposes authorised by section 8 of the [M51]Duchy of Cornwall Management Act 1863 for the advancement of parts of such gross sums as are therein mentioned shall include the payment to tenants of sums corresponding to those which, if the tenancies were not tenancies from the Crown, would be payable by way of compensation under section 17 above.

Marginal Citations

M50 19661 c. 55.

M51 1863 c. 49.

[[F159]33A Exclusion of certain shared ownership leases.

The provisions of Schedule 4A to this Act shall have effect to exclude certain shared ownership leases from the operation of this Part of this Act.**]**

Textual Amendments

F159 S. 33A inserted by Housing and Planning Act 1986 (c. 63, SIF 75:1), s. 18, **Sch. 4 para. 5**

Transitional

[F160]34 . . . . . .

Textual Amendments

F160 S. 34 repealed (5.11.1993) by 1993 c. 50, s. 1(1), **Sch. 1 Pt. XIII** Group1

[F161]35 . . . . . .

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Textual Amendments

F161 S. 35 repealed (5.11.1993) by 1993 c. 50, s. 1(1), **Sch. 1 Pt. XIII** group1

36 Relief in respect of mortgages etc. on landlord's estate.

(1) Where at the passing of this Act—

(a) a house is held on a long tenancy not having more than twenty years unexpired, or on a long tenancy capable of being determined within twenty years by notice given by the landlord; and

(b) the estate of the immediate or a superior landlord is charged to secure payment of any sum (otherwise than by way of rentcharge), whether or not the landlord is personally liable as principal or otherwise for the payment of that sum;

then on an application under subsection (2) or (3) below the court may make such order authorised by the subsection as the court thinks proper for the purpose of avoiding or mitigating any financial hardship that might otherwise be caused by the rights conferred on tenants by this Part of this Act.

(2) In any of the following cases, that is to say,—

(a) where the landlord proposes during the tenancy (including any extension thereof under this Act) to sell or realise any property which is subject to the charge, or a tenant of the house has given notice under this Part of this Act of his desire to have the freehold;

(b) where during the tenancy (including any such extension) the person entitled to the benefit of the charge has taken any steps to enforce the charge or demanded payment of the sum thereby secured or, if the house or any other property subject to the charge is subject also to another charge created or arising before the commencement of this Part of this Act, a person entitled to the benefit of the other charge has taken any steps to enforce the other charge or demanded payment of the sum thereby secured;

the court may on the application of the landlord make an order providing for all or any of the following:—

(i) for discharging or modifying any liability in respect of the sum secured by the charge, whether of the landlord or of persons liable jointly with him or as surety for him;

(ii) for discharging or modifying the terms of the charge whether as respects the house or any other property subject to the charge, or the terms of any collateral charge;

(iii) for restricting the exercise of any right or remedy in respect of any such liability or charge.

(3) In any of the cases mentioned in subsection (2)(a) and (b) above the court may on the application of the person entitled to the benefit of the charge make an order providing for all or any of the following:—

(a) for discharging or modifying the terms of any prior charge, whether as respects the house or any other property subject to the charge;

(b) for restricting the exercise of any right or remedy in respect of any prior charge on the house or other property subject to the charge.

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(4) Any order under this section may be made either unconditionally or subject to such terms and conditions, including conditions with respect to the payment of money, as the court may think just and equitable to impose.

(5) Where steps are taken in a court other than the county court to enforce a charge or recover any sum thereby secured, that other court shall have the like powers under this section in relation to that or any other charge as the county court would have in consequence of those steps being taken or, if an application under this section is pending in the county court, may on such terms as the other court thinks just suspend the proceedings for the enforcement of the charge or recovery of the said sum or direct that they be transferred to the county court.

Construction

37 Interpretation of Part I.

(1) For the purposes of this Part of this Act—

(a) "the appointed day" means the day appointed for the coming into force of the provisions of this Part of this Act other than sections 34 to 36, and references to the commencement of this Part of this Act shall be construed as referring to the commencement of those provisions;

(b) "incumbrance" and "tenant's incumbrance" have, subject to section 12(8) above, the meanings assigned to them by section 8;

(c) "notice to quit" means a notice to terminate a tenancy (whether a periodical tenancy or a tenancy for a term of years certain) given in accordance with the provisions (whether express or implied) of that tenancy;

(d) "relevant time" means, in relation to a person's claim to acquire the freehold or an extended lease under this Part of this Act, the time when he gives notice in accordance with this Act of his desire to have it;

(e) . . . . . [F162]

(f) "tenancy" means a tenancy at law or in equity, but does not include a tenancy at will, nor any interest created by way of security and liable to termination by the exercise of any right of redemption or otherwise, nor any interest created by way of trust under a settlement, and "demise" shall be construed accordingly;

(g) "term date", in relation to a tenancy granted for a term of years certain, means the date of expiry of that term, and "extended term date" and "original term date" mean respectively the term date of a tenancy with and without an extension under this Part of this Act.

(2) A tenancy to which section 19(2) of the [M52]Landlord and Tenant Act 1954 **[**[F163]or paragraph 16(2) of Schedule 10 to the Local Government and Housing Act 1988**]** applies shall be treated for purposes of this Part of this Act as granted to expire at the date which is the term date for purposes of **[**[F164]the said Act of 1954 or, as the case may be, the said Schedule 10**]** (that is to say, the first date after the commencement of **[**[F165]the said Act of 1954 or, as the case may be, the coming into force of the said Schedule 10**]** on which, apart from **[**[F166]the said Act of 1954 or, as the case may be, the said Schedule 10**]**, the tenancy could have been brought to an end by notice to quit given by the landlord).

(3) Subject to subsection (2) above, where under section 3(2) of this Act a tenancy created or arising as a tenancy from year to year or other periodical tenancy is to be treated

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as a long tenancy, the term date of that tenancy shall be taken to be the date (if any) at which the tenancy is to terminate by virtue of a notice to quit given by the landlord before the relevant time, or else the earliest date at which it could at that time (in accordance with its terms and apart from any enactment) be brought to an end by a notice to quit given by the landlord.

(4) Subject to subsection (2) above, in the case of a tenancy granted to continue as a periodical tenancy after the expiration of a term of years certain, or to continue as a periodical tenancy if not terminated at the expiration of such a term, any question whether the tenancy is at any time to be treated for purposes of this Part of this Act [F167]. . . as a long tenancy, and (if so) with what term date, shall be determined as it would be if there had been two tenancies, as follows—

(a) one granted to expire at the earliest time (at or after the expiry of the said term of years) at which the tenancy could (in accordance with its terms and apart from any enactment) be brought to an end by notice to quit given by the landlord; and

(b) the other granted to commence at the expiration of the first (and not being one to which subsection (2) above applies).

(5) [F168]. . . No reference in this Part of this Act to a person occupying property as his residence shall be taken to extend to any occupation of a company or other artificial person nor, where the tenant is a corporation sole, shall the corporator, while in occupation, be treated as occupying as tenant.

(6) **[**[F169]Section 25(1), (2) and (4) of the [M53]Rent Act 1977**]** shall apply to the ascertainment for purposes of this Part of this Act of the rateable value of a house and premises or any other property as they apply to the ascertainment of that of a dwelling-house for purposes of that Act.

(7) For purposes of this Part of this Act an order of a court is to be treated as becoming final—

(a) if not appealed against, on the expiration of the time for bringing an appeal; or

(b) if appealed against and not set aside in consequence of the appeal, at the time when the appeal and any further appeal is disposed of by the determination of it and the expiration of the time for bringing a further appeal (if any) or by its being abandoned or otherwise ceasing to have effect.

Textual Amendments

F162 S. 37(1) (*e*) repealed by Rent Act 1968 (c. 23), **Sch. 17**

F163 Words inserted by Local Government and Housing Act 1989 (c. 42, SIF 75:1), s. 194(1), **Sch. 11 para. 12(a)**

F164 Words substituted by Local Government and Housing Act 1989 (c. 42, SIF 75:1), s. 194(1), **Sch. 11 para. 12(b)**

F165 Words substituted by Local Government and Housing Act 1989 (c. 42, SIF 75:1), s. 194(1), **Sch. 11 para. 12(c)**

F166 Words substituted by Local Government and Housing Act 1989 (c. 42, SIF 75:1), s. 194(1), **Sch. 11 para. 12(d)**

F167 Words in s. 37(4) repealed (26.7.2002 for E. and 1.1.2003 for W.) by 2002 c. 15, s. 180, **Sch. 14**; S.I. 2002/1912, art. 2(b)(ii), **Sch. 1 Pt. 3** (subject to transitional provisions and savings in Sch. 2 of the commencing S.I.); S.I. 2002/3012, art. 2(b)(ii), **Sch. 1 Pt. 3** (subject to transitional provisions and savings in Sch. 2 of the commencing S.I.)

F168 Words in s. 37(5) repealed (26.7.2002 for E. and 1.1.2003 for W.) by 2002 c. 15, s. 180, **Sch. 14**; S.I. 2002/1912, art. 2(b)(ii), **Sch. 1 Pt. 3** (subject to transitional provisions and savings in Sch. 2 of the commencing S.I.); S.I. 2002/3012, art. 2(b)(ii), **Sch. 1 Pt. 3** (subject to transitional provisions and savings in Sch. 2 of the commencing S.I.)

F169 Words substituted by Rent Act 1977 (c. 42), s. 155, **Sch. 23 para. 44**

Marginal Citations

M52 1954 c. 56.

M53 1977 c. 42.

PART II

AMENDMENTS OF OTHER ACTS

38 Modification of right to possession under Landlord and Tenant Act 1954.

(1) The grounds on which under section 13 of the [M54]Landlord and Tenant Act 1954 a landlord may apply to the court for possession of property comprised in a tenancy (and which may accordingly under section 4 be specified in a landlord's notice to resume possession), in the case of applications made after the commencement of this Part of this Act, shall not include the ground mentioned in section 12(1)(a) (redevelopment), except where the landlord seeking to obtain possession is a body to which section 28 above applies and the property is required for relevant development within the meaning of section 28; but on any application by such a body under section 13 of that Act for possession on that ground a certificate given by a Minister of the Crown as provided by section 28(1) above shall be conclusive that the property is so required.

(2) In section 57 of the Landlord and Tenant Act 1954 (under which a tenant's rights under Part II of that Act are curtailed if an authority within the section is the landlord or a superior landlord and obtains a certificate similar to that under section 28 above) references to a local authority shall apply to any body to which section 28 above applies and which is not otherwise within the said section 57.

(3) For purposes of this section, section 28(5) to (8) above shall have effect from the commencement of this Part of this Act.

Modifications etc. (not altering text)

C18 S. 38(1) amended by Local Government Act 1985 (c. 51, SIF 81:1), s. 84, **Sch. 13 para. 17**
S. 38(1) amended (1.4.1995) by S.I. 1995/401, art. 18, **Sch. para. 3**

Marginal Citations

M54 1954 c. 56.

39 Application of Rent Acts to long tenancies and adaptation of Landlord and Tenant Act 1954.

(1) Section 21(2) of the [M55]Rent Act 1957 (which applies Part I of the [M56]Landlord and Tenant Act 1954 to long tenancies not at a low rent) shall cease to have effect; and—

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(a) . . . . . [F170]

(2) Subsection (1) above shall have effect subject to the adaptations of Part I of the Landlord and Tenant Act 1954, and of the **[**[F171M57]Rent Act 1968**]** as it applies to a statutory tenancy arising by virtue of the said Part I, which are made by Schedule 5 to this Act; and the transitional and supplementary provisions made by that Schedule shall have effect in relation to subsection (1) above and to statutory tenancies so arising.

(3) . . . . . [F172]

Textual Amendments

F170 S. 39(1) (*a*) (*c*) repealed by Rent Act 1968 (c. 23), **Sch. 17** and s. 39(1)(b) repealed by Counter-Inflation Act 1973 (c. 9), **Sch. 6**

F171 Words substituted by Rent Act 1968 (c. 23), **Sch. 15**; continued by Rent Act 1977 (c. 42), **Sch. 24 para. 30**

F172 S. 39(3) repealed by Statute Law (Repeals) Act 1976 (c. 16), **Sch. 1 Pt. XV**

Marginal Citations

M55 1957 c. 25.

M56 1954 c. 56.

M57 1968 c. 23.

40 Amendments of Places of Worship (Enfranchisement) Act 1920.

(1) In section 1(1) of the [M58] Places of Worship (Enfranchisement) Act 1920 after the words "place of worship", where first occurring, there shall be inserted the words " or, in connexion with a place of worship, for the purpose of a minister's house " ; and accordingly in section 5 of that Act—

(a) in the definition of "place of worship" for the words "caretaker's house or minister's house" there shall be substituted the words " or caretaker's house " ; and

(b) in the definition of "trustees" after the words "place of worship" there shall be inserted the words " or minister's house ".

(2) In section 1(1) of the Places of Worship (Enfranshisement) Act 1920 after paragraph (a) of the proviso there shall be inserted as a new paragraph (aa) the following :—

"(aa) where the person entitled to the freehold or an immediate reversion requires that underlying minerals be excepted, the trustees shall not be entitled to acquire his interest in the minerals if proper provision is made for the support of the premises as they have been enjoyed during the lease and in accordance with the terms of the lease and of the trust ; and".

(3) After section 1(1) of the Places of Worship (Enfranchisement) Act 1920 there shall be inserted as a new substion (1A) :—

"(1A) Where the residence house of a benefice is held by the incumbent under a lease to which this Act applies, this Act shall have effect (with any necessary modifications) in relation to the enlargement of the incumbent's leasehold interest into a fee simple, and in relation to the estate so acquired, as it would

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have effect if the residence house were vested for that interest in trustees ; and the powers and provisions of the Parsonages Measure 1938 (as amended by any subsequent enactment) relating to the purchase of houses for parsonages shall apply for and in relation to the acquisition under this Act of the freehold reversion.”.

(4) In section 2 of the [M59]Places of Worhip (Enfranchisement) Act 1920 for the words from “the Lands Clauses Acts”, where first occurring, to the end of paragraph (a) there shall be substituted—

“Part I of the Compulsory Purchase Act 1965 shall apply as if the trustees were an authority authorised to acquire the premises by virtue of a compulsory purchase order, made under the Acquisition of Land (Authorisation Procedure) Act 1946 ; but in relation to any acquisition under this Act the following provisions shall have effect :—

(a) in Part I of the Compulsory Purchase Act 1965 section 4 (time limit for acquisition) shall not apply, and for the purposes of the said Part I “land” shall include easements in or relating to land ;”and accordingly in the Places of Worship (Enfranchisement) Act 1920 there shall be omitted the definition in section 5 of “the county court” and the Schedule (which adapted for purposes of that Act the enactments originally applied by section 2, and in particular made in relation to re-sales special provision about the right to pre-emption conferred by the Land Clauses Acts but not by the Compulsory Purchase Act 1965).

(5) Section 4 of the Places of Worship (Enfranchisement) Act 1920 (under which the trusts of a place of worship may be enforced after enfranschisement by the Charity Commissioners, and if the trusts are not observed, the Commissioners may require the land to be sold) shall be omitted.

(6) In section 5 of the Places of Worship (Enfranchisement) Act 1920, in the definition of “freehold reversion”, there shall be omitted the words from “and, where” onwards (being words relating to copyhold land and land of customary tenure).

(7) In accordance with the provisions of this section the [M60]Places of Worship (Enfranchisement) Act 1920 shall, subject to subsection (8) below, have effect as set out in Schedule 6 to this Act.

(8) This section and the repeals made by Part II of Schedule 7 to this Act shall not affect the operation of the Places of Worship (Enfranchisement) Act 1920 where an interest has been acquired, or notice to treat for its acquisition has been served, under that Act before this section comes into force, except that section 4 of that Act shall cease to have effect for any purpose.

Modifications etc. (not altering text)

C19 The text of s. 40(1)–(6) is in the form in which it was originally enacted: it was not reproduced in Statutes in Force and does not reflect any amendments or repeals which may have been made prior to 1.2.1991.

Marginal Citations

M58 1920 c. 56.
M59 1920 c. 56.
M60 1920 c. 56.

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41 Short title, repeals, extent and commencement.

(1) This Act may be cited as the Leasehold Reform Act 1967.

(2) The enactments mentioned in Schedule 7 to this Act are hereby repealed to the extent specified in the third column of that Schedule, but subject to the savings mentioned at the end of Parts I and II of the Schedule.

(3) This Act shall not extend to Scotland or Northern Ireland.

(4) Sections 34 to 36 of this Act shall come into force on the day it is passed; and, [F173]. . . the other provisions of Part I shall come into force on such day as the Minister of Housing and Local Government and the Secretary of State may appoint by order made by them jointly by statutory instrument, which shall be laid before Parliament after being made.

(5) Part II of this Act shall come into force at the end of one month following the day on which this Act is passed.

Textual Amendments

F173 Words in s. 41(4) repealed (5.11.1993) by 1993 c. 50, s. 1(1), **Sch. 1 Pt. XIII** Group1

Modifications etc. (not altering text)

C20 1.1.1968 appointed under s. 41(4) by S.I. 1967/1836

C21 Reference to Minister of Housing and Local Government to be construed as reference to Secretary of State: S.I. 1970/1681, **art. 6(3)**

Status:
Point in time view as at 01/01/2003.

Changes to legislation:
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