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Leasehold Reform, Housing and Urban Development Act 1993

1993 CHAPTER 28

PART I

LANDLORD AND TENANT

CHAPTER I

COLLECTIVE ENFRANCHISEMENT IN CASE OF TENANTS OF FLATS

Preliminary

1 The right to collective enfranchisement.

- (1) This Chapter has effect for the purpose of conferring on qualifying tenants of flats contained in premises to which this Chapter applies on the relevant date the right, exercisable subject to and in accordance with this Chapter, to have the freehold of those premises acquired on their behalf—
 - (a) by a person or persons appointed by them for the purpose, and
 - (b) at a price determined in accordance with this Chapter;and that right is referred to in this Chapter as “the right to collective enfranchisement”.
- (2) Where the right to collective enfranchisement is exercised in relation to any such premises (“the relevant premises”)—
 - (a) the qualifying tenants by whom the right is exercised shall be entitled, subject to and in accordance with this Chapter, to have acquired, in like manner, the freehold of any property which is not comprised in the relevant premises but to which this paragraph applies by virtue of subsection (3); and
 - (b) section 2 has effect with respect to the acquisition of leasehold interests to which paragraph (a) or (b) of subsection (1) of that section applies.

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- (3) Subsection (2)(a) applies to any property if the freehold of it is owned by the person who owns the freehold of the relevant premises and at the relevant date either—
- (a) it is appurtenant property which is demised by the lease held by a qualifying tenant of a flat contained in the relevant premises; or
 - (b) it is property which any such tenant is entitled under the terms of the lease of his flat to use in common with the occupiers of other premises (whether those premises are contained in the relevant premises or not).
- (4) The right of acquisition in respect of the freehold of any such property as is mentioned in subsection (3)(b) shall, however, be taken to be satisfied with respect to that property if, on the acquisition of the relevant premises in pursuance of this Chapter, either—
- (a) there are granted by the freeholder—
 - (i) over that property, or
 - (ii) over any other property,
 such permanent rights as will ensure that thereafter the occupier of the flat referred to in that provision has as nearly as may be the same rights as those enjoyed in relation to that property on the relevant date by the qualifying tenant under the terms of his lease; or
 - (b) there is acquired from the freeholder the freehold of any other property over which any such permanent rights may be granted.
- (5) A claim by qualifying tenants to exercise the right to collective enfranchisement may be made in relation to any premises to which this Chapter applies despite the fact that those premises are less extensive than the entirety of the premises in relation to which those tenants are entitled to exercise that right.
- (6) Any right or obligation under this Chapter to acquire any interest in property shall not extend to underlying minerals in which that interest subsists if—
- (a) the owner of the interest requires the minerals to be excepted, and
 - (b) proper provision is made for the support of the property as it is enjoyed on the relevant date.
- (7) In this section—
- “appurtenant property”, in relation to a flat, means any garage, outhouse, garden, yard or appurtenances belonging to, or usually enjoyed with, the flat;
- “the freeholder” means the person who owns the freehold of the relevant premises;
- “the relevant premises” means any such premises as are referred to in subsection (2).
- (8) In this Chapter “the relevant date”, in relation to any claim to exercise the right to collective enfranchisement, means the date on which notice of the claim is given under section 13.

2 Acquisition of leasehold interests.

- (1) Where the right to collective enfranchisement is exercised in relation to any premises to which this Chapter applies (“the relevant premises”), then, subject to and in accordance with this Chapter—

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- (a) there shall be acquired on behalf of the qualifying tenants by whom the right is exercised every interest to which this paragraph applies by virtue of subsection (2); and
- (b) those tenants shall be entitled to have acquired on their behalf any interest to which this paragraph applies by virtue of subsection (3);

and any interest so acquired on behalf of those tenants shall be acquired in the manner mentioned in paragraphs (a) and (b) of section 1(1).

- (2) Paragraph (a) of subsection (1) above applies to the interest of the tenant under any lease which is superior to the lease held by a qualifying tenant of a flat contained in the relevant premises.
- (3) Paragraph (b) of subsection (1) above applies to the interest of the tenant under any lease (not falling within subsection (2) above) under which the demised premises consist of or include—
 - (a) any common parts of the relevant premises, or
 - (b) any property falling within section 1(2)(a) which is to be acquired by virtue of that provision,

where the acquisition of that interest is reasonably necessary for the proper management or maintenance of those common parts, or (as the case may be) that property, on behalf of the tenants by whom the right to collective enfranchisement is exercised.

- (4) Where the demised premises under any lease falling within subsection (2) or (3) include any premises other than—
 - (a) a flat contained in the relevant premises which is held by a qualifying tenant,
 - (b) any common parts of those premises, or
 - (c) any such property as is mentioned in subsection (3)(b),
 the obligation or (as the case may be) right under subsection (1) above to acquire the interest of the tenant under the lease shall not extend to his interest under the lease in any such other premises.
- (5) Where the qualifying tenant of a flat is a public sector landlord and the flat is let under a secure tenancy, then if—
 - (a) the condition specified in subsection (6) is satisfied, and
 - (b) the lease of the qualifying tenant is directly derived out of a lease under which the tenant is a public sector landlord,

the interest of that public sector landlord as tenant under that lease shall not be liable to be acquired by virtue of subsection (1) to the extent that it is an interest in the flat or in any appurtenant property; and the interest of a public sector landlord as tenant under any lease out of which the qualifying tenant's lease is indirectly derived shall, to the like extent, not be liable to be so acquired (so long as the tenant under every lease intermediate between that lease and the qualifying tenant's lease is a public sector landlord).

- (6) The condition referred to in subsection (5)(a) is that either—
 - (a) the qualifying tenant is the immediate landlord under the secure tenancy, or
 - (b) he is the landlord under a lease which is superior to the secure tenancy and the tenant under that lease, and the tenant under every lease (if any) intermediate between it and the secure tenancy, is also a public sector landlord;
 and in subsection (5) “appurtenant property” has the same meaning as in section 1.

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- (7) In this section “the relevant premises” means any such premises as are referred to in subsection (1).

3 Premises to which this Chapter applies.

- (1) Subject to section 4, this Chapter applies to any premises if—
- (a) they consist of a self-contained building or part of a building and the freehold of the whole of the building or of that part of the building is owned by the same person;
 - (b) they contain two or more flats held by qualifying tenants; and
 - (c) the total number of flats held by such tenants is not less than two-thirds of the total number of flats contained in the premises.
- (2) For the purposes of this section a building is a self-contained building if it is structurally detached, and a part of a building is a self-contained part of a building if—
- (a) it constitutes a vertical division of the building and the structure of the building is such that that part could be redeveloped independently of the remainder of the building; and
 - (b) the relevant services provided for occupiers of that part either—
 - (i) are provided independently of the relevant services provided for occupiers of the remainder of the building, or
 - (ii) could be so provided without involving the carrying out of any works likely to result in a significant interruption in the provision of any such services for occupiers of the remainder of the building;
- and for this purpose “relevant services” means services provided by means of pipes, cables or other fixed installations.

4 Premises excluded from right.

- (1) This Chapter does not apply to premises falling within section 3(1) if—
- (a) any part or parts of the premises is or are neither—
 - (i) occupied, or intended to be occupied, for residential purposes, nor
 - (ii) comprised in any common parts of the premises; and
 - (b) the internal floor area of that part or of those parts (taken together) exceeds 10 per cent. of the internal floor area of the premises (taken as a whole).
- (2) Where in the case of any such premises any part of the premises (such as, for example, a garage, parking space or storage area) is used, or intended for use, in conjunction with a particular dwelling contained in the premises (and accordingly is not comprised in any common parts of the premises), it shall be taken to be occupied, or intended to be occupied, for residential purposes.
- (3) For the purpose of determining the internal floor area of a building or of any part of a building, the floor or floors of the building or part shall be taken to extend (without interruption) throughout the whole of the interior of the building or part, except that the area of any common parts of the building or part shall be disregarded.
- (4) This Chapter does not apply to premises falling within section 3(1) if the premises are premises with a resident landlord and do not contain more than four units.

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VALID FROM 26/07/2002

[^{F1}4A RTE companies

- (1) A company is a RTE company in relation to premises if—
 - (a) it is a private company limited by guarantee, and
 - (b) its memorandum of association states that its object, or one of its objects, is the exercise of the right to collective enfranchisement with respect to the premises.
- (2) But a company is not a RTE company if it is a commonhold association (within the meaning of Part 1 of the Commonhold and Leasehold Reform Act 2002).
- (3) And a company is not a RTE company in relation to premises if another company which is a RTE company in relation to—
 - (a) the premises, or
 - (b) any premises containing or contained in the premises,
 has given a notice under section 13 with respect to the premises, or any premises containing or contained in the premises, and the notice continues in force in accordance with subsection (11) of that section.

Textual Amendments

- F1** Ss. 4A-4C inserted (26.7.2002 for E. for specified purposes, 1.1.2003 for W. for specified purposes and otherwise prosp.) by [Commonhold and Leasehold Reform Act 2002 \(c. 15\), s. 122](#); S.I. 2002/1912, [art. 2\(c\)](#) (subject to [Sch. 2](#)); S. I. 2002/3012, [art. 2\(c\)](#) (subject to [Sch. 2](#))

VALID FROM 26/07/2002

4B RTE companies: membership

- (1) Before the execution of a relevant conveyance to a company which is a RTE company in relation to any premises the following persons are entitled to be members of the company—
 - (a) qualifying tenants of flats contained in the premises, and
 - (b) if the company is also a RTM company which has acquired the right to manage the premises, landlords under leases of the whole or any part of the premises.
- (2) In this section—

“relevant conveyance” means a conveyance of the freehold of the premises or of any premises containing or contained in the premises; and

“RTM company” has the same meaning as in Chapter 1 of Part 2 of the Commonhold and Leasehold Reform Act 2002.
- (3) On the execution of a relevant conveyance to the RTE company, any member of the company who is not a participating member ceases to be a member.

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- (4) In this Chapter “participating member”, in relation to a RTE company, means a person who is a member by virtue of subsection (1)(a) of this section and who—
- (a) has given a participation notice to the company before the date when the company gives a notice under section 13 or during the participation period, or
 - (b) is a participating member by virtue of either of the following two subsections.
- (5) A member who is the assignee of a lease by virtue of which a participating member was a qualifying tenant of his flat is a participating member if he has given a participation notice to the company within the period beginning with the date of the assignment and ending 28 days later (or, if earlier, on the execution of a relevant conveyance to the company).
- (6) And if the personal representatives of a participating member are a member, they are a participating member if they have given a participation notice to the company at any time (before the execution of a relevant conveyance to the company).
- (7) In this section “participation notice”, in relation to a member of the company, means a notice stating that he wishes to be a participating member.
- (8) For the purposes of this section a participation notice given to the company during the period—
- (a) beginning with the date when the company gives a notice under section 13, and
 - (b) ending immediately before a binding contract is entered into in pursuance of the notice under section 13,
- is of no effect unless a copy of the participation notice has been given during that period to the person who (in accordance with section 9) is the reversioner in respect of the premises.
- (9) For the purposes of this section “the participation period” is the period beginning with the date when the company gives a notice under section 13 and ending—
- (a) six months, or such other time as the Secretary of State may by order specify, after that date, or
 - (b) immediately before a binding contract is entered into in pursuance of the notice under section 13,
- whichever is the earlier.
- (10) In this section references to assignment include an assent by personal representatives, and assignment by operation of law where the assignment is to a trustee in bankruptcy or to a mortgagee under section 89(2) of the Law of Property Act 1925 (c. 20) (foreclosure of leasehold mortgage); and references to an assignee shall be construed accordingly.

Textual Amendments

- F1** Ss. 4A-4C inserted (26.7.2002 for E. for specified purposes, 1.1.2003 for W. for specified purposes and otherwise prosp.) by [Commonhold and Leasehold Reform Act 2002 \(c. 15\)](#), s. 122; S.I. 2002/1912, art. 2(c) (subject to [Sch. 2](#)); S. I. 2002/3012, art. 2(e) (subject to [Sch. 2](#))

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4C RTE companies: regulations

- (1) The Secretary of State shall by regulations make provision about the content and form of the memorandum of association and articles of association of RTE companies.
- (2) A RTE company may adopt provisions of the regulations for its memorandum or articles.
- (3) The regulations may include provision which is to have effect for a RTE company whether or not it is adopted by the company.
- (4) A provision of the memorandum or articles of a RTE company has no effect to the extent that it is inconsistent with the regulations.
- (5) The regulations have effect in relation to a memorandum or articles—
 - (a) irrespective of the date of the memorandum or articles, but
 - (b) subject to any transitional provisions of the regulations.
- (6) The following provisions of the Companies Act 1985 (c. 6) do not apply to a RTE company—
 - (a) sections 2(7) and 3 (memorandum), and
 - (b) section 8 (articles).]

Textual Amendments

- F1** Ss. 4A-4C inserted (26.7.2002 for E. for specified purposes, 1.1.2003 for W. for specified purposes and otherwise prosp.) by [Commonhold and Leasehold Reform Act 2002 \(c. 15\), s. 122](#); [S.I. 2002/1912, art. 2\(c\)](#) (subject to [Sch. 2](#)); [S. I. 2002/3012, art. 2\(c\)](#) (subject to [Sch. 2](#))

5 Qualifying tenants.

- (1) Subject to the following provisions of this section, a person is a qualifying tenant of a flat for the purposes of this Chapter if he is tenant of the flat under a long lease at a low rent.
- (2) Subsection (1) does not apply where—
 - (a) the lease is a business lease; or
 - (b) the immediate landlord under the lease is a charitable housing trust and the flat forms part of the housing accommodation provided by it in the pursuit of its charitable purposes; or
 - (c) the lease was granted by sub-demise out of a superior lease other than a long lease at a low rent, the grant was made in breach of the terms of the superior lease, and there has been no waiver of the breach by the superior landlord;and in paragraph (b) “charitable housing trust” means a housing trust within the meaning of the ^{M1}Housing Act 1985 which is a charity within the meaning of the ^{M2}Charities Act 1993.
- (3) No flat shall have more than one qualifying tenant at any one time.

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(4) Accordingly—

- (a) where a flat is for the time being let under two or more leases to which subsection (1) applies, any tenant under any of those leases which is superior to that held by any other such tenant shall not be a qualifying tenant of the flat for the purposes of this Chapter; and
- (b) where a flat is for the time being let to joint tenants under a lease to which subsection (1) applies, the joint tenants shall (subject to paragraph (a) and subsection (5)) be regarded for the purposes of this Chapter as jointly constituting the qualifying tenant of the flat.

(5) Where apart from this subsection—

- (a) a person would be regarded for the purposes of this Chapter as being (or as being among those constituting) the qualifying tenant of a flat contained in any particular premises consisting of the whole or part of a building, but
- (b) that person would also be regarded for those purposes as being (or as being among those constituting) the qualifying tenant of each of two or more other flats contained in those premises,

then, whether that person is tenant of the flats referred to in paragraphs (a) and (b) under a single lease or otherwise, there shall be taken for those purposes to be no qualifying tenant of any of those flats.

- (6) For the purposes of subsection (5) in its application to a body corporate any flat let to an associated company (whether alone or jointly with any other person or persons) shall be treated as if it were so let to that body; and for this purpose “associated company” means another body corporate which is (within the meaning of section 736 of the ^{M3}Companies Act 1985) that body’s holding company, a subsidiary of that body or another subsidiary of that body’s holding company.

Marginal Citations

- M1** 1985 c. 68.
- M2** 1993 c. 10.
- M3** 1985 c. 6.

6 Qualifying tenants satisfying residence condition.

- (1) For the purposes of this Chapter a qualifying tenant of a flat satisfies the residence condition at any time when the condition specified in subsection (2) is satisfied with respect to him.
- (2) That condition is that the tenant has occupied the flat as his only or principal home—
 - (a) for the last twelve months, or
 - (b) for periods amounting to three years in the last ten years,
 whether or not he has used it also for other purposes.
- (3) For the purposes of subsection (2)—
 - (a) any reference to the tenant’s flat includes a reference to part of it; and
 - (b) it is immaterial whether at any particular time the tenant’s occupation was in right of the lease by virtue of which he is a qualifying tenant or in right of some other lease or otherwise;

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but any occupation by a company or other artificial person, or (where the tenant is a corporation sole) by the corporator, shall not be regarded as occupation for the purposes of that subsection.

- (4) In the case of a lease held by joint tenants—
- (a) the condition specified in subsection (2) need only be satisfied with respect to one of the joint tenants; and
 - (b) subsection (3) shall apply accordingly (the reference to the lease by virtue of which the tenant is a qualifying tenant being read for this purpose as a reference to the lease by virtue of which the joint tenants are a qualifying tenant).

7 Meaning of “long lease”.

- (1) In this Chapter “long lease” means (subject to the following provisions of this section)

- (a) a lease granted for a term of years certain exceeding 21 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) a lease for a term fixed by law under a grant with a covenant or obligation for perpetual renewal (other than a lease by sub-demise from one which is not a long lease) or a lease taking effect under section 149(6) of the ^{M4}Law of Property Act 1925 (leases terminable after a death or marriage);
- (c) a lease granted in pursuance of the right to buy conferred by Part V of the ^{M5}Housing Act 1985 or in pursuance of the right to acquire on rent to mortgage terms conferred by that Part of that Act; or
- (d) a shared ownership lease, whether granted in pursuance of that Part of that Act or otherwise, where the tenant’s total share is 100 per cent.

- (2) A lease terminable by notice after a death or marriage is not to be treated as a long lease for the purposes of this Chapter 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 lease 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.

- (3) Where the tenant of any property under a long lease at a low rent, on the coming to an end of that lease, becomes or has become tenant of the property or part of it under any subsequent tenancy (whether by express grant or by implication of law), then that tenancy shall be deemed for the purposes of this Chapter (including any further application of this subsection) to be a long lease irrespective of its terms.

- (4) Where—

- (a) a lease is or has been granted for a term of years certain not exceeding 21 years, but with a covenant or obligation for renewal without payment of a premium (but not for perpetual renewal), and
- (b) the lease is or has been renewed on one or more occasions so as to bring to more than 21 years the total of the terms granted (including any interval between the end of a lease and the grant of a renewal),

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this Chapter shall apply as if the term originally granted had been one exceeding 21 years.

- (5) References in this Chapter to a long lease include—
- (a) any period during which the lease is or was continued under Part I of the ^{M6}Landlord and Tenant Act 1954 or under Schedule 10 to the ^{M7}Local Government and Housing Act 1989;
 - (b) any period during which the lease was continued under the ^{M8}Leasehold Property (Temporary Provisions) Act 1951.
- (6) Where in the case of a flat there are at any time two or more separate leases, with the same landlord and the same tenant, and—
- (a) the property comprised in one of those leases consists of either the flat or a part of it (in either case with or without any appurtenant property), and
 - (b) the property comprised in every other lease consists of either a part of the flat (with or without any appurtenant property) or appurtenant property only,
- then in relation to the property comprised in such of those leases as are long leases, this Chapter shall apply as it would if at that time—
- (i) there were a single lease of that property, and
 - (ii) that lease were a long lease;
- but this subsection has effect subject to the operation of subsections (3) to (5) in relation to any of the separate leases.

- (7) In this section—
- “appurtenant property” has the same meaning as in section 1;
- “shared ownership lease” means a lease—
- (a) granted on payment of a premium calculated by reference to a percentage of the value of the demised premises or the cost of providing them, or
 - (b) under which the tenant (or his personal representatives) will or may be entitled to a sum calculated by reference, directly or indirectly, to the value of those premises; and
- “total share”, in relation to the interest of a tenant under a shared ownership lease, means his initial share plus any additional share or shares in the demised premises which he has acquired.

Marginal Citations

M4	1925 c. 20.
M5	1985 c. 68.
M6	1954 c. 56.
M7	1989 c. 42.
M8	1951 c. 38.

8 Leases at a low rent.

- (1) For the purposes of this Chapter a lease of a flat is a lease at a low rent if either no rent was payable under it in respect of the flat during the initial year or the aggregate amount of rent so payable during that year did not exceed the following amount, namely—

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- (a) where the lease was entered into before 1st April 1963, two-thirds of the letting value of the flat (on the same terms) on the date of the commencement of the lease;
 - (b) where—
 - (i) the lease 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
 - (ii) the flat had a rateable value at the date of the commencement of the lease or else at any time before 1st April 1990, two-thirds of the rateable value of the flat on the appropriate date; or
 - (c) in any other case, £1,000 if the flat is in Greater London or £250 if elsewhere.
- (2) For the purposes of subsection (1)—
- (a) “the initial year”, in relation to any lease, means the period of one year beginning with the date of the commencement of the lease;
 - (b) “the appropriate date” means the date of the commencement of the lease or, if the flat in question did not have a rateable value on that date, the date on which the flat first had a rateable value;
 - (c) section 25(1), (2) and (4) of the ^{M9}Rent Act 1977 (rateable value etc.) shall apply, with any necessary modifications, for the purpose of determining the amount of the rateable value of a flat on a particular date;
 - (d) “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 under the lease or a superior landlord; and
 - (e) there shall be disregarded any term of the lease 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 lease or an agreement collateral thereto.
- (3) In subsection (1)(a) above the reference to letting value shall be construed in like manner as, under the law of England and Wales, the reference to letting value is to be construed where it appears in the proviso to section 4(1) of the ^{M10}Leasehold Reform Act 1967 (meaning of “low rent”).
- (4) Accordingly, in determining the letting value of a flat at any time for the purposes of subsection (1)(a) above, regard shall be had to whether, and (if so) in what amount, a premium might then have been lawfully demanded as the whole or part of the consideration for the letting.
- (5) Where, by virtue of section 7(4), a lease which has been renewed on one or more occasions is to be treated as a long lease for the purposes of this Chapter, then for the purpose of determining under this section whether it is for those purposes a long lease at a low rent—
- (a) the lease shall be deemed to have been entered into on the date of the last renewal of the lease; and
 - (b) that date shall be deemed to be the date of the commencement of the lease.
- (6) Subsection (2)(a) above shall have effect in relation to any shared ownership lease falling within section 7(1)(d) as if the reference to the date of commencement of the

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lease were a reference to the date on which the tenant's total share became 100 per cent; and section 7(7) shall apply for the interpretation of this subsection.

- (7) In this section any reference to a flat let under a lease includes a reference to any appurtenant property (within the meaning of section 1) which on the relevant date is let with the flat to the tenant under the lease.

Marginal Citations

M9 1977 c. 42.

M10 1967 c. 88.

VALID FROM 01/04/1997

[^{F2}8A Meaning of “particularly long term”.

- (1) For the purposes of this Chapter a long lease is for a particularly long term if—
- (a) it is granted for a term of years certain exceeding 35 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 (other than a lease by sub-demise from one which is not for a particularly long term),
 - (c) it takes effect under section 149(6) of the ^{M11}Law of Property Act 1925 (leases terminable after a death or marriage), or
 - (d) it is a lease which—
 - (i) is or has been granted for a term of years certain not exceeding 35 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 renewed on one or more occasions so as to bring to more than 35 years the total of the terms granted (including any interval between the end of a lease and the grant of a renewal).
- (2) A long lease which does not fall within subsection (1) above shall nonetheless be treated for the purposes of this Chapter as being for a particularly long term if it is a long lease by virtue of paragraph (c) or (d) of section 7(1).
- (3) Where this Chapter applies as if there were a single lease of property comprised in two or more separate leases, then, if each of the separate leases is for a particularly long term, this Chapter shall apply as if the single lease were for such a term.]

Textual Amendments

F2 S. 8A inserted (1.4.1997) by 1996 c. 52, s. 106, **Sch. 9 para. 3(3)**; S.I. 1997/618, **art. 2(1)** (with savings in **Sch.**)

Marginal Citations

M11 1925 c. 20.

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9 The reversioner and other relevant landlords for the purposes of this Chapter.

- (1) Where, in connection with any claim to exercise the right to collective enfranchisement in relation to any premises, it is not proposed to acquire any interests other than—
 - (a) the freehold of the premises, or
 - (b) any other interests of the person who owns the freehold of the premises,that person shall be the reversioner in respect of the premises for the purposes of this Chapter.
- (2) Where, in connection with any such claim, it is proposed to acquire interests of persons other than the person who owns the freehold of the premises to which the claim relates, then—
 - (a) the reversioner in respect of the premises shall for the purposes of this Chapter be the person identified as such by Part I of Schedule 1 to this Act; and
 - (b) the person who owns the freehold of the premises, and every person who owns any leasehold interest which it is proposed to acquire under or by virtue of section 2(1)(a) or (b), shall be a relevant landlord for those purposes.
- (3) Subject to the provisions of Part II of Schedule 1, the reversioner in respect of any premises shall, in a case to which subsection (2) applies, conduct on behalf of all the relevant landlords all proceedings arising out of any notice given with respect to the premises under section 13 (whether the proceedings are for resisting or giving effect to the claim in question).
- (4) Schedule 2 (which makes provision with respect to certain special categories of landlords) has effect for the purposes of this Chapter.

10 Premises with a resident landlord.

- (1) For the purposes of this Chapter any premises falling within section 3(1) are at any time premises with a resident landlord if—
 - (a) the premises are not, and do not form part of, a purpose-built block of flats; and
 - (b) the freeholder, or an adult member of the freeholder's family—
 - (i) at that time occupies a flat contained in the premises as his only or principal home, and
 - (ii) has so occupied such a flat throughout a period of not less than twelve months ending with that time.
- (2) Where any premises falling within section 3(1) would at any time ("the relevant time") be premises with a resident landlord but for the fact that subsection (1)(b)(ii) above does not apply, the premises shall nevertheless be treated for the purposes of this Chapter as being at that time premises with a resident landlord if—
 - (a) immediately before the date when the freeholder acquired his interest in the premises the premises were (or, had this Chapter then been in force, would have been) such premises for the purposes of this Chapter; and
 - (b) the freeholder, or an adult member of the freeholder's family—
 - (i) entered into occupation of a flat contained in the premises within the period of 28 days beginning with that date, and
 - (ii) has occupied such a flat as his only or principal home throughout the period beginning with the time when he so entered into occupation and ending with the relevant time.

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- (3) In paragraph (b) of each of subsections (1) and (2) any reference to a flat includes a reference to a unit (other than a flat) which is used as a dwelling.
- (4) Where the freehold interest in any premises is held on trust, subsections (1) and (2) shall apply as if, in paragraph (b) of each of those subsections, any reference to the freeholder were instead a reference to a person having an interest under the trust (whether or not also a trustee).
- (5) For the purposes of this section 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 18; or
 - (c) the father or mother of the other, or of the other’s wife or husband;
- and in paragraph (b) any reference to a person’s son or daughter includes a reference to any stepson or stepdaughter of that person, and “son-in-law” and “daughter-in-law” shall be construed accordingly.
- (6) In this section—
- “the freeholder”, in relation to any premises, means the person who owns the freehold of the premises;
- “purpose-built block of flats” means a building which as constructed contained two or more flats.

Preliminary inquiries by tenants

11 Right of qualifying tenant to obtain information about superior interests etc.

- (1) A qualifying tenant of a flat may give—
- (a) to his immediate landlord, or
 - (b) to any person receiving rent on behalf of his immediate landlord,
- a notice requiring the recipient to give the tenant (so far as known to the recipient) the name and address of the person who owns the freehold of the relevant premises and the name and address of every other person who has an interest to which subsection (2) applies.
- (2) In relation to a qualifying tenant of a flat, this subsection applies to the following interests, namely—
- (a) the freehold of any property not contained in the relevant premises—
 - (i) which is demised by the lease held by the tenant, or
 - (ii) which the tenant is entitled under the terms of his lease to use in common with other persons; and
 - (b) any leasehold interest in the relevant premises or in any such property which is superior to that of the tenant’s immediate landlord.
- (3) Any qualifying tenant of a flat may give to the person who owns the freehold of the relevant premises a notice requiring him to give the tenant (so far as known to him) the name and address of every person, apart from the tenant, who is—
- (a) a tenant of the whole of the relevant premises, or

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- (b) a tenant or licensee of any separate set or sets of premises contained in the relevant premises, or
 - (c) a tenant or licensee of the whole or any part of any common parts so contained or of any property not so contained—
 - (i) which is demised by the lease held by a qualifying tenant of a flat contained in the relevant premises, or
 - (ii) which any such qualifying tenant is entitled under the terms of his lease to use in common with other persons.
- (4) Any such qualifying tenant may also give—
- (a) to the person who owns the freehold of the relevant premises, or
 - (b) to any person falling within subsection (3)(a), (b) or (c),
- a notice requiring him to give the tenant—
- (i) such information relating to his interest in the relevant premises or (as the case may be) in any such property as is mentioned in subsection (3)(c), or
 - (ii) (so far as known to him) such information relating to any interest derived (whether directly or indirectly) out of that interest,
- as is specified in the notice, where the information is reasonably required by the tenant in connection with the making of a claim to exercise the right to collective enfranchisement in relation to the whole or part of the relevant premises.
- (5) Where a notice is given by a qualifying tenant under subsection (4), the following rights shall be exercisable by him in relation to the recipient of the notice, namely—
- (a) a right, on giving reasonable notice, to be provided with a list of documents to which subsection (6) applies;
 - (b) a right to inspect, at any reasonable time and on giving reasonable notice, any documents to which that subsection applies; and
 - (c) a right, on payment of a reasonable fee, to be provided with a copy of any documents which are contained in any list provided under paragraph (a) or have been inspected under paragraph (b).
- (6) This subsection applies to any document in the custody or under the control of the recipient of the notice under subsection (4)—
- (a) sight of which is reasonably required by the qualifying tenant in connection with the making of such a claim as is mentioned in that subsection; and
 - (b) which, on a proposed sale by a willing seller to a willing buyer of the recipient's interest in the relevant premises or (as the case may be) in any such property as is mentioned in subsection (3)(c), the seller would be expected to make available to the buyer (whether at or before contract or completion).
- (7) Any person who—
- (a) is required by a notice under any of subsections (1) to (4) to give any information to a qualifying tenant, or
 - (b) is required by a qualifying tenant under subsection (5) to supply any list of documents, to permit the inspection of any documents or to supply a copy of any documents,
- shall comply with that requirement within the period of 28 days beginning with the date of the giving of the notice referred to in paragraph (a) or (as the case may be) with the date of the making of the requirement referred to in paragraph (b).
- (8) Where—

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- (a) a person has received a notice under subsection (4), and
- (b) within the period of six months beginning with the date of receipt of the notice, he—
 - (i) disposes of any interest (whether legal or equitable) in the relevant premises otherwise than by the creation of an interest by way of security for a loan, or
 - (ii) acquires any such interest (otherwise than by way of security for a loan),

then (unless that disposal or acquisition has already been notified to the qualifying tenant in accordance with subsection (7)) he shall notify the qualifying tenant of that disposal or acquisition within the period of 28 days beginning with the date when it occurred.

(9) In this section—

“document” has the same meaning as in Part I of the ^{M12}Civil Evidence Act 1968;

“the relevant premises”, in relation to any qualifying tenant of a flat, means—

- (a) if the person who owns the freehold interest in the flat owns the freehold of the whole of the building in which the flat is contained, that building, or
- (b) if that person owns the freehold of part only of that building, that part of that building;

and any reference to an interest in the relevant premises includes an interest in part of those premises.

Marginal Citations

M12 1968 c. 64.

12 Right of qualifying tenant to obtain information about other matters.

- (1) Any notice given by a qualifying tenant under section 11(4) shall, in addition to any other requirement imposed in accordance with that provision, require the recipient to give the tenant—
 - (a) the information specified in subsection (2) below; and
 - (b) (so far as known to the recipient) the information specified in subsection (3) below.
- (2) The information referred to in subsection (1)(a) is—
 - (a) whether the recipient has received in respect of any premises containing the tenant’s flat—
 - (i) a notice under section 13 in the case of which the relevant claim is still current, or
 - (ii) a copy of such a notice; and
 - (b) if so, the date on which the notice under section 13 was given and the name and address of the nominee purchaser for the time being appointed for the purposes of section 15 in relation to that claim.
- (3) The information referred to in subsection (1)(b) is—

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- (a) whether the tenant’s flat is comprised in any property in the case of which any of paragraphs (a) to (d) of section 31(2) is applicable; and
 - (b) if paragraph (b) or (d) of that provision is applicable, the date of the application in question.
- (4) Where—
- (a) within the period of six months beginning with the date of receipt of a notice given by a tenant under section 11(4), the recipient of the notice receives in respect of any premises containing the tenant’s flat—
 - (i) a notice under section 13, or
 - (ii) a copy of such a notice, and
 - (b) the tenant is not one of the qualifying tenants by whom the notice under section 13 is given,
- the recipient shall, within the period of 28 days beginning with the date of receipt of the notice under section 13 or (as the case may be) the copy, notify the tenant of the date on which the notice was given and of the name and address of the nominee purchaser for the time being appointed for the purposes of section 15 in relation to the relevant claim.
- (5) Where—
- (a) the recipient of a notice given by a tenant under section 11(4) has, in accordance with subsection (1) above, informed the tenant of any such application as is referred to in subsection (3)(b) above; and
 - (b) within the period of six months beginning with the date of receipt of the notice, the application is either granted or refused by the Commissioners of Inland Revenue or is withdrawn by the applicant,
- the recipient shall, within the period of 28 days beginning with the date of the granting, refusal or withdrawal of the application, notify the tenant that it has been granted, refused or withdrawn.
- (6) In this section “the relevant claim”, in relation to a notice under section 13, means the claim in respect of which that notice is given; and for the purposes of subsection (2) above any such claim is current if—
- (a) that notice continues in force in accordance with section 13(11), or
 - (b) a binding contract entered into in pursuance of that notice remains in force, or
 - (c) where an order has been made under section 24(4)(a) or (b) or 25(6)(a) or (b) with respect to any such premises as are referred to in subsection (2)(a) above, any interests which by virtue of the order fall to be vested in the nominee purchaser have yet to be so vested.

The initial notice

13 Notice by qualifying tenants of claim to exercise right.

- (1) A claim to exercise the right to collective enfranchisement with respect to any premises is made by the giving of notice of the claim under this section.
- (2) A notice given under this section (“the initial notice”)—
 - (a) must be given to the reversioner in respect of those premises; and
 - (b) must be given by a number of qualifying tenants of flats contained in the premises as at the relevant date which—

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- (i) is not less than two-thirds of the total number of such tenants, and
(ii) is not less than one-half of the total number of flats so contained;
and not less than one-half of the qualifying tenants by whom the notice is given must satisfy the residence condition.
- (3) The initial notice must—
- (a) specify and be accompanied by a plan showing—
 - (i) the premises of which the freehold is proposed to be acquired by virtue of section 1(1),
 - (ii) any property of which the freehold is proposed to be acquired by virtue of section 1(2)(a), and
 - (iii) any property of the person who owns the freehold of the specified premises over which it is proposed that rights (specified in the notice) should be granted by him in connection with the acquisition of the freehold of the specified premises or of any such property so far as falling within section 1(3)(a);
 - (b) contain a statement of the grounds on which it is claimed that the specified premises are, on the relevant date, premises to which this Chapter applies;
 - (c) specify—
 - (i) any leasehold interest proposed to be acquired under or by virtue of section 2(1)(a) or (b), and
 - (ii) any flats or other units contained in the specified premises in relation to which it is considered that any of the requirements in Part II of Schedule 9 to this Act are applicable;
 - (d) specify the proposed purchase price for each of the following, namely—
 - (i) the freehold interest in the specified premises,
 - (ii) the freehold interest in any property specified under paragraph (a)(ii), and
 - (iii) any leasehold interest specified under paragraph (c)(i);
 - (e) state the full names of all the qualifying tenants of flats contained in the specified premises and the addresses of their flats, and contain the following particulars in relation to each of those tenants, namely—
 - (i) such particulars of his lease as are sufficient to identify it, including the date on which the lease was entered into, the term for which it was granted and the date of the commencement of the term,
 - (ii) such further particulars as are necessary to show that the lease is a lease at a low rent, and
 - (iii) if it is claimed that he satisfies the residence condition, particulars of the period or periods falling within the preceding ten years for which he has occupied the whole or part of his flat as his only or principal home;
 - (f) state the full name or names of the person or persons appointed as the nominee purchaser for the purposes of section 15, and an address in England and Wales at which notices may be given to that person or those persons under this Chapter; and
 - (g) specify the date by which the reversioner must respond to the notice by giving a counter-notice under section 21.
- (4) In a case where the tenant's lease is held by joint tenants, subsection (3)(e)(iii) shall have effect as if any reference to the tenant were a reference to any joint tenant by virtue

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of whose occupation of the flat in question it is claimed that the residence condition is satisfied.

(5) The date specified in the initial notice in pursuance of subsection (3)(g) must be a date falling not less than two months after the relevant date.

(6) A notice shall not be given under this section with respect to any premises unless the qualifying tenants by whom it is given have obtained a valuation prepared by a qualified surveyor in respect of—

- (a) the freehold interest in the specified premises,
- (b) the freehold interest in any property specified under subsection (3)(a)(ii), and
- (c) any leasehold interest specified under subsection (3)(c)(i),

and any such notice must contain a statement confirming that they have done so and state the name of the surveyor in question.

(7) For the purposes of subsection (6) a person is a qualified surveyor if—

- (a) he is a fellow or professional associate of the Royal Institution of Chartered Surveyors or of the Incorporated Society of Valuers and Auctioneers or satisfies such other requirement or requirements as may be prescribed by regulations made by the Secretary of State; and
- (b) he is reasonably believed by the qualifying tenants to have ability in, and experience of, the valuation of premises of the particular kind, and in the particular area, in question;

and any valuation prepared for the purposes of that subsection must be prepared in conformity with the provisions of Schedule 6 so far as relating to the determination of the price payable under this Chapter for the interest in question.

(8) Where any premises have been specified in a notice under this section, no subsequent notice which specifies the whole or part of those premises may be given under this section so long as the earlier notice continues in force.

(9) Where any premises have been specified in a notice under this section and—

- (a) that notice has been withdrawn, or is deemed to have been withdrawn, under or by virtue of any provision of this Chapter or under section 74(3), or
- (b) in response to that notice, an order has been applied for and obtained under section 23(1),

no subsequent notice which specifies the whole or part of those premises may be given under this section within the period of twelve months beginning with the date of the withdrawal or deemed withdrawal of the earlier notice or with the time when the order under section 23(1) becomes final (as the case may be).

(10) In subsections (8) and (9) any reference to a notice which specifies the whole or part of any premises includes a reference to a notice which specifies any premises which contain the whole or part of those premises; and in those subsections and this “specifies” means specifies under subsection (3)(a)(i).

(11) Where a notice is given in accordance with this section, then for the purposes of this Chapter the notice continues in force as from the relevant date—

- (a) until a binding contract is entered into in pursuance of the notice, or an order is made under section 24(4)(a) or (b) or 25(6)(a) or (b) providing for the vesting of interests in the nominee purchaser;

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- (b) if the notice is withdrawn or deemed to have been withdrawn under or by virtue of any provision of this Chapter or under section 74(3), until the date of the withdrawal or deemed withdrawal, or
 - (c) until such other time as the notice ceases to have effect by virtue of any provision of this Chapter.
- (12) In this Chapter “the specified premises”, in relation to a claim made under this Chapter, means—
- (a) the premises specified in the initial notice under subsection (3)(a)(i), or
 - (b) if it is subsequently agreed or determined under this Chapter that any less extensive premises should be acquired in pursuance of the notice in satisfaction of the claim, those premises;
- and similarly references to any property or interest specified in the initial notice under subsection (3)(a)(ii) or (c)(i) shall, if it is subsequently agreed or determined under this Chapter that any less extensive property or interest should be acquired in pursuance of the notice, be read as references to that property or interest.
- (13) Schedule 3 to this Act (which contains restrictions on participating in the exercise of the right to collective enfranchisement, and makes further provision in connection with the giving of notices under this section) shall have effect.

Participating tenants and nominee purchaser

14 The participating tenants.

- (1) In relation to any claim to exercise the right to collective enfranchisement, the participating tenants are (subject to the provisions of this section and Part I of Schedule 3) the following persons, namely—
- (a) in relation to the relevant date, the qualifying tenants by whom the initial notice is given; and
 - (b) in relation to any time falling after that date, such of those qualifying tenants as for the time being remain qualifying tenants of flats contained in the specified premises.
- (2) Where the lease by virtue of which a participating tenant is a qualifying tenant of his flat is assigned to another person, the assignee of the lease shall, within the period of 14 days beginning with the date of the assignment, notify the nominee purchaser—
- (a) of the assignment, and
 - (b) as to whether or not the assignee is electing to participate in the proposed acquisition.
- (3) Where a qualifying tenant of a flat contained in the specified premises—
- (a) is not one of the persons by whom the initial notice was given, and
 - (b) is not such an assignee of the lease of a participating tenant as is mentioned in subsection (2),
- then (subject to paragraph 8 of Schedule 3) he may elect to participate in the proposed acquisition, but only with the agreement of all the persons who are for the time being participating tenants; and, if he does so elect, he shall notify the nominee purchaser forthwith of his election.

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- (4) Where a person notifies the nominee purchaser under subsection (2) or (3) of his election to participate in the proposed acquisition, he shall be regarded as a participating tenant for the purposes of this Chapter—
- (a) as from the date of the assignment or agreement referred to in that subsection; and
 - (b) so long as he remains a qualifying tenant of a flat contained in the specified premises.
- (5) Where a participating tenant dies, his personal representatives shall, within the period of 56 days beginning with the date of death, notify the nominee purchaser—
- (a) of the death of the tenant, and
 - (b) as to whether or not the personal representatives are electing to withdraw from participation in the proposed acquisition;
- and, unless the personal representatives of a participating tenant so notify the nominee purchaser that they are electing to withdraw from participation in that acquisition, they shall be regarded as a participating tenant for the purposes of this Chapter—
- (i) as from the date of the death of the tenant, and
 - (ii) so long as his lease remains vested in them.
- (6) Where in accordance with subsection (4) or (5) any assignee or personal representatives of a participating tenant (“the tenant”) is or are to be regarded as a participating tenant for the purposes of this Chapter, any arrangements made between the nominee purchaser and the participating tenants and having effect immediately before the date of the assignment or (as the case may be) the date of death shall have effect as from that date—
- (a) with such modifications as are necessary for substituting the assignee or (as the case may be) the personal representatives as a party to the arrangements in the place of the tenant; or
 - (b) in the case of an assignment by a person who remains a qualifying tenant of a flat contained in the specified premises, with such modifications as are necessary for adding the assignee as a party to the arrangements.
- (7) Where the nominee purchaser receives a notification under subsection (2), (3) or (5), he shall, within the period of 28 days beginning with the date of receipt of the notification—
- (a) give a notice under subsection (8) to the reversioner in respect of the specified premises, and
 - (b) give a copy of that notice to every other relevant landlord.
- (8) A notice under this subsection is a notice stating—
- (a) in the case of a notification under subsection (2)—
 - (i) the date of the assignment and the name and address of the assignee,
 - (ii) that the assignee has or (as the case may be) has not become a participating tenant in accordance with subsection (4), and
 - (iii) if he has become a participating tenant (otherwise than in a case to which subsection (6)(b) applies), that he has become such a tenant in place of his assignor;
 - (b) in the case of a notification under subsection (3), the name and address of the person who has become a participating tenant in accordance with subsection (4); and
 - (c) in the case of a notification under subsection (5)—

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- (i) the date of death of the deceased tenant,
 - (ii) the names and addresses of the personal representatives of the tenant, and
 - (iii) that in accordance with that subsection those persons are or (as the case may be) are not to be regarded as a participating tenant.
- (9) Every notice under subsection (8)—
- (a) shall identify the flat with respect to which it is given; and
 - (b) if it states that any person or persons is or are to be regarded as a participating tenant, shall be signed by the person or persons in question.
- (10) In this section references to assignment include an assent by personal representatives and assignment by operation of law, where the assignment is—
- (a) to a trustee in bankruptcy, or
 - (b) to a mortgagee under section 89(2) of the ^{M13}Law of Property Act 1925 (foreclosure of leasehold mortgage),
- and references to an assignee shall be construed accordingly.
- (11) Nothing in this section has effect for requiring or authorising anything to be done at any time after a binding contract is entered into in pursuance of the initial notice.

Marginal Citations

M13 1925 c. 20.

15 The nominee purchaser: appointment and replacement.

- (1) The nominee purchaser shall conduct on behalf of the participating tenants all proceedings arising out of the initial notice, with a view to the eventual acquisition by him, on their behalf, of such freehold and other interests as fall to be so acquired under a contract entered into in pursuance of that notice.
- (2) In relation to any claim to exercise the right to collective enfranchisement with respect to any premises, the nominee purchaser shall be such person or persons as may for the time being be appointed for the purposes of this section by the participating tenants; and in the first instance the nominee purchaser shall be the person or persons specified in the initial notice in pursuance of section 13(3)(f).
- (3) The appointment of any person as the nominee purchaser, or as one of the persons constituting the nominee purchaser, may be terminated by the participating tenants by the giving of a notice stating that that person's appointment is to terminate on the date on which the notice is given.
- (4) Any such notice must be given—
 - (a) to the person whose appointment is being terminated, and
 - (b) to the reversioner in respect of the specified premises.
- (5) Any such notice must in addition either—
 - (a) specify the name or names of the person or persons constituting the nominee purchaser as from the date of the giving of the notice, and an address in England and Wales at which notices may be given to that person or those persons under this Chapter; or

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(b) state that the following particulars will be contained in a further notice given to the reversioner within the period of 28 days beginning with that date, namely—

- (i) the name of the person or persons for the time being constituting the nominee purchaser,
- (ii) if falling after that date, the date of appointment of that person or of each of those persons, and
- (iii) an address in England and Wales at which notices may be given to that person or those persons under this Chapter;

and the appointment of any person by way of replacement for the person whose appointment is being terminated shall not be valid unless his name is specified, or is one of those specified, under paragraph (a) or (b).

(6) Where the appointment of any person is terminated in accordance with this section, anything done by or in relation to the nominee purchaser before the date of termination of that person's appointment shall be treated, so far as necessary for the purpose of continuing its effect, as having been done by or in relation to the nominee purchaser as constituted on or after that date.

(7) Where the appointment of any person is so terminated, he shall not be liable under section 33 for any costs incurred in connection with the proposed acquisition under this Chapter at any time after the date of termination of his appointment; but if—

- (a) at any such time he is requested by the nominee purchaser for the time being to supply to the nominee purchaser, at an address in England and Wales specified in the request, all or any documents in his custody or under his control that relate to that acquisition, and
- (b) he fails without reasonable cause to comply with any such request or is guilty of any unreasonable delay in complying with it,

he shall be liable for any costs which are incurred by the nominee purchaser, or for which the nominee purchaser is liable under section 33, in consequence of the failure.

(8) Where—

- (a) two or more persons together constitute the nominee purchaser, and
- (b) the appointment of any (but not both or all) of them is terminated in accordance with this section without any person being appointed by way of immediate replacement,

the person or persons remaining shall for the time being constitute the nominee purchaser.

(9) Where—

- (a) a notice given under subsection (3) contains such a statement as is mentioned in subsection (5)(b), and
- (b) as a result of the termination of the appointment in question there is no nominee purchaser for the time being,

the running of any period which—

- (i) is prescribed by or under this Part for the giving of any other notice or the making of any application, and
- (ii) would otherwise expire during the period beginning with the date of the giving of the notice under subsection (3) and ending with the date when the particulars specified in subsection (5)(b) are notified to the reversioner,

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shall (subject to subsection (10)) be suspended throughout the period mentioned in paragraph (ii).

(10) If—

- (a) the circumstances are as mentioned in subsection (9)(a) and (b), but
- (b) the particulars specified in subsection (5)(b) are not notified to the reversioner within the period of 28 days specified in that provision,

the initial notice shall be deemed to have been withdrawn at the end of that period.

(11) A copy of any notice given under subsection (3) or (5)(b) shall be given by the participating tenants to every relevant landlord (other than the reversioner) to whom the initial notice or a copy of it was given in accordance with section 13 and Part II of Schedule 3; and, where a notice under subsection (3) terminates the appointment of a person who is one of two or more persons together constituting the nominee purchaser, a copy of the notice shall also be so given to every other person included among those persons.

(12) Nothing in this section applies in relation to the termination of the appointment of the nominee purchaser (or of any of the persons constituting the nominee purchaser) at any time after a binding contract is entered into in pursuance of the initial notice; and in this Chapter references to the nominee purchaser, so far as referring to anything done by or in relation to the nominee purchaser at any time falling after such a contract is so entered into, are references to the person or persons constituting the nominee purchaser at the time when the contract is entered into or such other person as is for the time being the purchaser under the contract.

16 The nominee purchaser: retirement or death.

(1) The appointment of any person as the nominee purchaser, or as one of the persons constituting the nominee purchaser, may be terminated by that person by the giving of a notice stating that he is resigning his appointment with effect from 21 days after the date of the notice.

(2) Any such notice must be given—

- (a) to each of the participating tenants; and
- (b) to the reversioner in respect of the specified premises.

(3) Where the participating tenants have received any such notice, they shall, within the period of 56 days beginning with the date of the notice, give to the reversioner a notice informing him of the resignation and containing the following particulars, namely—

- (a) the name or names of the person or persons for the time being constituting the nominee purchaser,
- (b) if falling after that date, the date of appointment of that person or of each of those persons, and
- (c) an address in England and Wales at which notices may be given to that person or those persons under this Chapter;

and the appointment of any person by way of replacement for the person resigning his appointment shall not be valid unless his name is specified, or is one of those specified, under paragraph (a).

(4) Subsections (6) to (8) of section 15 shall have effect in connection with a person's resignation of his appointment in accordance with this section as they have effect in

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connection with the termination of a person's appointment in accordance with that section.

(5) Where the person, or one of the persons, constituting the nominee purchaser dies, the participating tenants shall, within the period of 56 days beginning with the date of death, give to the reversioner a notice informing him of the death and containing the following particulars, namely—

- (a) the name or names of the person or persons for the time being constituting the nominee purchaser,
- (b) if falling after that date, the date of appointment of that person or of each of those persons, and
- (c) an address in England and Wales at which notices may be given to that person or those persons under this Chapter;

and the appointment of any person by way of replacement for the person who has died shall not be valid unless his name is specified, or is one of those specified, under paragraph (a).

(6) Subsections (6) and (8) of section 15 shall have effect in connection with the death of any such person as they have effect in connection with the termination of a person's appointment in accordance with that section.

(7) If—

- (a) the participating tenants are required to give a notice under subsection (3) or (5), and
- (b) as a result of the resignation or death referred to in that subsection there is no nominee purchaser for the time being,

the running of any period which—

- (i) is prescribed by or under this Part for the giving of any other notice or the making of any application, and
- (ii) would otherwise expire during the period beginning with the relevant date and ending with the date when the particulars specified in that subsection are notified to the reversioner,

shall (subject to subsection (8)) be suspended throughout the period mentioned in paragraph (ii); and for this purpose “the relevant date” means the date of the notice of resignation under subsection (1) or the date of death (as the case may be).

(8) If—

- (a) the circumstances are as mentioned in subsection (7)(a) and (b), but
- (b) the participating tenants fail to give a notice under subsection (3) or (as the case may be) subsection (5) within the period of 56 days specified in that subsection,

the initial notice shall be deemed to have been withdrawn at the end of that period.

(9) Where a notice under subsection (1) is given by a person who is one of two or more persons together constituting the nominee purchaser, a copy of the notice shall be given by him to every other person included among those persons; and a copy of any notice given under subsection (3) or (5) shall be given by the participating tenants to every relevant landlord (other than the reversioner) to whom the initial notice or a copy of it was given in accordance with section 13 and Part II of Schedule 3.

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- (10) Nothing in this section applies in relation to the resignation or death of the nominee purchaser (or any of the persons together constituting the nominee purchaser) at any time after a binding contract is entered into in pursuance of the initial notice.

Procedure following giving of initial notice

17 Access by relevant landlords for valuation purposes.

- (1) Once the initial notice or a copy of it has been given in accordance with section 13 or Part II of Schedule 3 to the reversioner or to any other relevant landlord, that person and any person authorised to act on his behalf shall, in the case of—
- (a) any part of the specified premises, or
 - (b) any part of any property specified in the notice under section 13(3)(a)(ii),
- in which he has a freehold or leasehold interest which is included in the proposed acquisition by the nominee purchaser, have a right of access thereto for the purpose of enabling him to obtain a valuation of that interest in connection with the notice.
- (2) Once the initial notice has been given in accordance with section 13, the nominee purchaser and any person authorised to act on his behalf shall have a right of access to—
- (a) any part of the specified premises, or
 - (b) any part of any property specified in the notice under section 13(3)(a)(ii),
- where such access is reasonably required by the nominee purchaser in connection with any matter arising out of the notice.
- (3) A right of access conferred by this section shall be exercisable at any reasonable time and on giving not less than 10 days' notice to the occupier of any premises to which access is sought (or, if those premises are unoccupied, to the person entitled to occupy them).

18 Duty of nominee purchaser to disclose existence of agreements affecting specified premises etc.

- (1) If at any time during the period beginning with the relevant date and ending with the valuation date for the purposes of Schedule 6—
- (a) there subsists between the nominee purchaser and a person other than a participating tenant any agreement (of whatever nature) providing for the disposal of a relevant interest, or
 - (b) if the nominee purchaser is a company, any person other than a participating tenant holds any share in that company by virtue of which a relevant interest may be acquired,
- the existence of that agreement or shareholding shall be notified to the reversioner by the nominee purchaser as soon as possible after the agreement or shareholding is made or established or, if in existence on the relevant date, as soon as possible after that date.
- (2) If—
- (a) the nominee purchaser is required to give any notification under subsection (1) but fails to do so before the price payable to the reversioner or any other relevant landlord in respect of the acquisition of any interest of his by the nominee purchaser is determined for the purposes of Schedule 6, and

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- (b) it may reasonably be assumed that, had the nominee purchaser given the notification, it would have resulted in the price so determined being increased by an amount referable to the existence of any agreement or shareholding falling within subsection (1)(a) or (b),

the nominee purchaser and the participating tenants shall be jointly and severally liable to pay the amount to the reversioner or (as the case may be) the other relevant landlord.

- (3) In subsection (1) “relevant interest” means any interest in, or in any part of, the specified premises or any property specified in the initial notice under section 13(3)(a)(ii).

- (4) Paragraph (a) of subsection (1) does not, however, apply to an agreement if the only disposal of such an interest for which it provides is one consisting in the creation of an interest by way of security for a loan.

19 Effect of initial notice as respects subsequent transactions by freeholder etc.

- (1) Where the initial notice has been registered in accordance with section 97(1), then so long as it continues in force—

- (a) the person who owns the freehold of the specified premises shall not—
- (i) make any disposal severing his interest in those premises or in any property specified in the notice under section 13(3)(a)(ii), or
 - (ii) grant out of that interest any lease under which, if it had been granted before the relevant date, the interest of the tenant would to any extent have been liable on that date to acquisition by virtue of section 2(1)(a) or (b); and
- (b) no other relevant landlord shall grant out of his interest in the specified premises or in any property so specified any such lease as is mentioned in paragraph (a)(ii);

and any transaction shall be void to the extent that it purports to effect any such disposal or any such grant of a lease as is mentioned in paragraph (a) or (b).

- (2) Where the initial notice has been so registered and at any time when it continues in force—

- (a) the person who owns the freehold of the specified premises disposes of his interest in those premises or in any property specified in the notice under section 13(3)(a)(ii), or
- (b) any other relevant landlord disposes of any interest of his specified in the notice under section 13(3)(c)(i),

subsection (3) below shall apply in relation to that disposal.

- (3) Where this subsection applies in relation to any such disposal as is mentioned in subsection (2)(a) or (b), all parties shall for the purposes of this Chapter be in the same position as if the person acquiring the interest under the disposal—

- (a) had become its owner before the initial notice was given (and was accordingly a relevant landlord in place of the person making the disposal), and
- (b) had been given any notice or copy of a notice given under this Chapter to that person, and
- (c) had taken all steps which that person had taken;

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and, if any subsequent disposal of that interest takes place at any time when the initial notice continues in force, this subsection shall apply in relation to that disposal as if any reference to the person making the disposal included any predecessor in title of his.

(4) Where immediately before the relevant date there is in force a binding contract relating to the disposal to any extent—

- (a) by the person who owns the freehold of the specified premises, or
- (b) by any other relevant landlord,

of any interest of his falling within subsection (2)(a) or (b), then, so long as the initial notice continues in force, the operation of the contract shall be suspended so far as it relates to any such disposal.

(5) Where—

- (a) the operation of a contract has been suspended under subsection (4) (“the suspended contract”), and
- (b) a binding contract is entered into in pursuance of the initial notice,

then (without prejudice to the general law as to the frustration of contracts) the person referred to in paragraph (a) or (b) of that subsection shall, together with all other persons, be discharged from the further performance of the suspended contract so far as it relates to any such disposal as is mentioned in subsection (4).

(6) In subsections (4) and (5) any reference to a contract (except in the context of such a contract as is mentioned in subsection (5)(b)) includes a contract made in pursuance of an order of any court; but those subsections do not apply to any contract providing for the eventuality of a notice being given under section 13 in relation to the whole or part of the property in which any such interest as is referred to in subsection (4) subsists.

20 Right of reversioner to require evidence of tenant’s right to participate.

(1) The reversioner in respect of the specified premises may, within the period of 21 days beginning with the relevant date, give the nominee purchaser a notice requiring him, in the case of any person by whom the initial notice was given, to deduce the title of that person to the lease by virtue of which it is claimed that he is a qualifying tenant of a flat contained in the specified premises.

(2) The nominee purchaser shall comply with any such requirement within the period of 21 days beginning with the date of the giving of the notice.

(3) Where—

- (a) the nominee purchaser fails to comply with a requirement under subsection (1) in the case of any person within the period mentioned in subsection (2), and
- (b) the initial notice would not have been given in accordance with section 13(2)(b) if—
 - (i) that person, and
 - (ii) any other person in the case of whom a like failure by the nominee purchaser has occurred,

had been neither included among the persons who gave the notice nor included among the qualifying tenants of the flats referred to in that provision, the initial notice shall be deemed to have been withdrawn at the end of that period.

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21 Reversioner's counter-notice.

- (1) The reversioner in respect of the specified premises shall give a counter-notice under this section to the nominee purchaser by the date specified in the initial notice in pursuance of section 13(3)(g).
- (2) The counter-notice must comply with one of the following requirements, namely—
 - (a) state that the reversioner admits that the participating tenants were on the relevant date entitled to exercise the right to collective enfranchisement in relation to the specified premises;
 - (b) state that, for such reasons as are specified in the counter-notice, the reversioner does not admit that the participating tenants were so entitled;
 - (c) contain such a statement as is mentioned in paragraph (a) or (b) above but state that an application for an order under subsection (1) of section 23 is to be made by such appropriate landlord (within the meaning of that section) as is specified in the counter-notice, on the grounds that he intends to redevelop the whole or a substantial part of the specified premises.
- (3) If the counter-notice complies with the requirement set out in subsection (2)(a), it must in addition—
 - (a) state which (if any) of the proposals contained in the initial notice are accepted by the reversioner and which (if any) of those proposals are not so accepted, and specify—
 - (i) in relation to any proposal which is not so accepted, the reversioner's counter-proposal, and
 - (ii) any additional leaseback proposals by the reversioner;
 - (b) if (in a case where any property specified in the initial notice under section 13(3)(a)(ii) is property falling within section 1(3)(b)) any such counter-proposal relates to the grant of rights or the disposal of any freehold interest in pursuance of section 1(4), specify—
 - (i) the nature of those rights and the property over which it is proposed to grant them, or
 - (ii) the property in respect of which it is proposed to dispose of any such interest,as the case may be;
 - (c) state which interests (if any) the nominee purchaser is to be required to acquire in accordance with subsection (4) below;
 - (d) state which rights (if any) the person who owns the freehold of the specified premises, or any other relevant landlord, desires to retain—
 - (i) over any property in which he has any interest which is included in the proposed acquisition by the nominee purchaser, or
 - (ii) over any property in which he has any interest which the nominee purchaser is to be required to acquire in accordance with subsection (4) below,on the grounds that the rights are necessary for the proper management or maintenance of property in which he is to retain a freehold or leasehold interest; and
 - (e) include a description of any provisions which the reversioner or any other relevant landlord considers should be included in any conveyance to the nominee purchaser in accordance with section 34 and Schedule 7.

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- (4) The nominee purchaser may be required to acquire on behalf of the participating tenants the interest in any property of the person who owns the freehold of the specified premises or of any other relevant landlord, if the property—
 - (a) would for all practical purposes cease to be of use and benefit to him, or
 - (b) would cease to be capable of being reasonably managed or maintained by him, in the event of his interest in the specified premises or (as the case may be) in any other property being acquired by the nominee purchaser under this Chapter.
- (5) Where a counter-notice specifies any interest in pursuance of subsection (3)(c), the nominee purchaser or any person authorised to act on his behalf shall, in the case of any part of the property in which that interest subsists, have a right of access thereto for the purpose of enabling the nominee purchaser to obtain, in connection with the proposed acquisition by him, a valuation of that interest; and subsection (3) of section 17 shall apply in relation to the exercise of that right as it applies in relation to the exercise of a right of access conferred by that section.
- (6) Every counter-notice must specify an address in England and Wales at which notices may be given to the reversioner under this Chapter.
- (7) The reference in subsection (3)(a)(ii) to additional leaseback proposals is a reference to proposals which relate to the leasing back, in accordance with section 36 and Schedule 9, of flats or other units contained in the specified premises and which are made either—
 - (a) in respect of flats or other units in relation to which Part II of that Schedule is applicable but which were not specified in the initial notice under section 13(3)(c)(ii), or
 - (b) in respect of flats or other units in relation to which Part III of that Schedule is applicable.
- (8) Schedule 4 (which imposes requirements as to the furnishing of information by the reversioner about the exercise of rights under Chapter II with respect to flats contained in the specified premises) shall have effect.

Applications to court or leasehold valuation tribunal

22 Proceedings relating to validity of initial notice.

- (1) Where—
 - (a) the reversioner in respect of the specified premises has given the nominee purchaser a counter-notice under section 21 which (whether it complies with the requirement set out in subsection (2)(b) or (c) of that section) contains such a statement as is mentioned in subsection (2)(b) of that section, but
 - (b) the court is satisfied, on an application made by the nominee purchaser, that the participating tenants were on the relevant date entitled to exercise the right to collective enfranchisement in relation to the specified premises,
 the court shall by order make a declaration to that effect.
- (2) Any application for an order under subsection (1) must be made not later than the end of the period of two months beginning with the date of the giving of the counter-notice to the nominee purchaser.

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- (3) If on any such application the court makes an order under subsection (1), then (subject to subsection (4)) the court shall make an order—
 - (a) declaring that the reversioner's counter-notice shall be of no effect, and
 - (b) requiring the reversioner to give a further counter-notice to the nominee purchaser by such date as is specified in the order.
- (4) Subsection (3) shall not apply if—
 - (a) the counter-notice complies with the requirement set out in section 21(2)(c), and
 - (b) either—
 - (i) an application for an order under section 23(1) is pending, or
 - (ii) the period specified in section 23(3) as the period for the making of such an application has not expired.
- (5) Subsections (3) to (5) of section 21 shall apply to any further counter-notice required to be given by the reversioner under subsection (3) above as if it were a counter-notice under that section complying with the requirement set out in subsection (2)(a) of that section.
- (6) If an application by the nominee purchaser for an order under subsection (1) is dismissed by the court, the initial notice shall cease to have effect at the time when the order dismissing the application becomes final.

23 Tenants' claim liable to be defeated where landlord intends to redevelop.

- (1) Where the reversioner in respect of the specified premises has given a counter-notice under section 21 which complies with the requirement set out in subsection (2)(c) of that section, the court may, on the application of any appropriate landlord, by order declare that the right to collective enfranchisement shall not be exercisable in relation to those premises by reason of that landlord's intention to redevelop the whole or a substantial part of the premises.
- (2) The court shall not make an order under subsection (1) unless it is satisfied—
 - (a) that not less than two-thirds of all the long leases on which flats contained in the specified premises are held are due to terminate within the period of five years beginning with the relevant date; and
 - (b) that for the purposes of redevelopment the applicant intends, once the leases in question have so terminated—
 - (i) to demolish or reconstruct, or
 - (ii) to carry out substantial works of construction on, the whole or a substantial part of the specified premises; and
 - (c) that he could not reasonably do so without obtaining possession of the flats demised by those leases.
- (3) Any application for an order under subsection (1) must be made within the period of two months beginning with the date of the giving of the counter-notice to the nominee purchaser; but, where the counter-notice is one falling within section 22(1)(a), such an application shall not be proceeded with until such time (if any) as an order under section 22(1) becomes final.
- (4) Where an order under subsection (1) is made by the court, the initial notice shall cease to have effect on the order becoming final.

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- (5) Where an application for an order under subsection (1) is dismissed by the court, the court shall make an order—
- (a) declaring that the reversioner’s counter-notice shall be of no effect, and
 - (b) requiring the reversioner to give a further counter-notice to the nominee purchaser by such date as is specified in the order.
- (6) Where—
- (a) the reversioner has given such a counter-notice as is mentioned in subsection (1), but
 - (b) either—
 - (i) no application for an order under that subsection is made within the period referred to in subsection (3), or
 - (ii) such an application is so made but is subsequently withdrawn,
 then (subject to subsection (8)), the reversioner shall give a further counter-notice to the nominee purchaser within the period of two months beginning with the appropriate date.
- (7) In subsection (6) “the appropriate date” means—
- (a) if subsection (6)(b)(i) applies, the date immediately following the end of the period referred to in subsection (3); and
 - (b) if subsection (6)(b)(ii) applies, the date of withdrawal of the application.
- (8) Subsection (6) shall not apply if any application has been made by the nominee purchaser under section 22(1).
- (9) Subsections (3) to (5) of section 21 shall apply to any further counter-notice required to be given by the reversioner under subsection (5) or (6) above as if it were a counter-notice under that section complying with the requirement set out in subsection (2)(a) of that section.
- (10) In this section “appropriate landlord”, in relation to the specified premises, means—
- (a) the reversioner or any other relevant landlord; or
 - (b) any two or more persons falling within paragraph (a) who are acting together.

24 Applications where terms in dispute or failure to enter contract.

- (1) Where the reversioner in respect of the specified premises has given the nominee purchaser—
- (a) a counter-notice under section 21 complying with the requirement set out in subsection (2)(a) of that section, or
 - (b) a further counter-notice required by or by virtue of section 22(3) or section 23(5) or (6),
- but any of the terms of acquisition remain in dispute at the end of the period of two months beginning with the date on which the counter-notice or further counter-notice was so given, a leasehold valuation tribunal may, on the application of either the nominee purchaser or the reversioner, determine the matters in dispute.
- (2) Any application under subsection (1) must be made not later than the end of the period of six months beginning with the date on which the counter-notice or further counter-notice was given to the nominee purchaser.
- (3) Where—

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- (a) the reversioner has given the nominee purchaser such a counter-notice or further counter-notice as is mentioned in subsection (1)(a) or (b), and
 - (b) all of the terms of acquisition have been either agreed between the parties or determined by a leasehold valuation tribunal under subsection (1),
- but a binding contract incorporating those terms has not been entered into by the end of the appropriate period specified in subsection (6), the court may, on the application of either the nominee purchaser or the reversioner, make such order under subsection (4) as it thinks fit.
- (4) The court may under this subsection make an order—
- (a) providing for the interests to be acquired by the nominee purchaser to be vested in him on the terms referred to in subsection (3);
 - (b) providing for those interests to be vested in him on those terms, but subject to such modifications as—
 - (i) may have been determined by a leasehold valuation tribunal, on the application of either the nominee purchaser or the reversioner, to be required by reason of any change in circumstances since the time when the terms were agreed or determined as mentioned in that subsection, and
 - (ii) are specified in the order; or
 - (c) providing for the initial notice to be deemed to have been withdrawn at the end of the appropriate period specified in subsection (6);
- and Schedule 5 shall have effect in relation to any such order as is mentioned in paragraph (a) or (b) above.
- (5) Any application for an order under subsection (4) must be made not later than the end of the period of two months beginning immediately after the end of the appropriate period specified in subsection (6).
- (6) For the purposes of this section the appropriate period is—
- (a) where all of the terms of acquisition have been agreed between the parties, the period of two months beginning with the date when those terms were finally so agreed;
 - (b) where all or any of those terms have been determined by a leasehold valuation tribunal under subsection (1)—
 - (i) the period of two months beginning with the date when the decision of the tribunal under that subsection becomes final, or
 - (ii) such other period as may have been fixed by the tribunal when making its determination.
- (7) In this section “the parties” means the nominee purchaser and the reversioner and any relevant landlord who has given to those persons a notice for the purposes of paragraph 7(1)(a) of Schedule 1.
- (8) In this Chapter “the terms of acquisition”, in relation to a claim made under this Chapter, means the terms of the proposed acquisition by the nominee purchaser, whether relating to—
- (a) the interests to be acquired,
 - (b) the extent of the property to which those interests relate or the rights to be granted over any property,
 - (c) the amounts payable as the purchase price for such interests,

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- (d) the apportionment of conditions or other matters in connection with the severance of any reversionary interest, or
 - (e) the provisions to be contained in any conveyance,
- or otherwise, and includes any such terms in respect of any interest to be acquired in pursuance of section 1(4) or 21(4).

25 Applications where reversioner fails to give counter-notice or further counter-notice.

- (1) Where the initial notice has been given in accordance with section 13 but—
 - (a) the reversioner has failed to give the nominee purchaser a counter-notice in accordance with section 21(1), or
 - (b) if required to give the nominee purchaser a further counter-notice by or by virtue of section 22(3) or section 23(5) or (6), the reversioner has failed to comply with that requirement,

the court may, on the application of the nominee purchaser, make an order determining the terms on which he is to acquire, in accordance with the proposals contained in the initial notice, such interests and rights as are specified in it under section 13(3).
- (2) The terms determined by the court under subsection (1) shall, if Part II of Schedule 9 is applicable, include terms which provide for the leasing back, in accordance with section 36 and that Part of that Schedule, of flats or other units contained in the specified premises.
- (3) The court shall not make any order on an application made by virtue of paragraph (a) of subsection (1) unless it is satisfied—
 - (a) that the participating tenants were on the relevant date entitled to exercise the right to collective enfranchisement in relation to the specified premises; and
 - (b) if applicable, that the requirements of Part II of Schedule 3 were complied with as respects the giving of copies of the initial notice.
- (4) Any application for an order under subsection (1) must be made not later than the end of the period of six months beginning with the date by which the counter-notice or further counter-notice referred to in that subsection was to be given to the nominee purchaser.
- (5) Where—
 - (a) the terms of acquisition have been determined by an order of the court under subsection (1), but
 - (b) a binding contract incorporating those terms has not been entered into by the end of the appropriate period specified in subsection (8),

the court may, on the application of either the nominee purchaser or the reversioner, make such order under subsection (6) as it thinks fit.
- (6) The court may under this subsection make an order—
 - (a) providing for the interests to be acquired by the nominee purchaser to be vested in him on the terms referred to in subsection (5);
 - (b) providing for those interests to be vested in him on those terms, but subject to such modifications as—
 - (i) may have been determined by a leasehold valuation tribunal, on the application of either the nominee purchaser or the reversioner, to be

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- required by reason of any change in circumstances since the time when the terms were determined as mentioned in that subsection, and
- (ii) are specified in the order; or
- (c) providing for the initial notice to be deemed to have been withdrawn at the end of the appropriate period specified in subsection (8);
- and Schedule 5 shall have effect in relation to any such order as is mentioned in paragraph (a) or (b) above.
- (7) Any application for an order under subsection (6) must be made not later than the end of the period of two months beginning immediately after the end of the appropriate period specified in subsection (8).
- (8) For the purposes of this section the appropriate period is—
- (a) the period of two months beginning with the date when the order of the court under subsection (1) becomes final, or
- (b) such other period as may have been fixed by the court when making that order.

26 Applications where relevant landlord cannot be found.

- (1) Where not less than two-thirds of the qualifying tenants of flats contained in any premises to which this Chapter applies desire to make a claim to exercise the right to collective enfranchisement in relation to those premises but—
- (a) (in a case to which section 9(1) applies) the person who owns the freehold of the premises cannot be found or his identity cannot be ascertained, or
- (b) (in a case to which section 9(2) applies) each of the relevant landlords is someone who cannot be found or whose identity cannot be ascertained,
- the court may, on the application of the qualifying tenants in question, make a vesting order under this subsection—
- (i) with respect to any interests of that person (whether in those premises or in any other property) which are liable to acquisition on behalf of those tenants by virtue of section 1(1) or (2)(a) or section 2(1), or
- (ii) with respect to any interests of those landlords which are so liable to acquisition by virtue of any of those provisions,
- as the case may be.
- (2) Where in a case to which section 9(2) applies—
- (a) not less than two-thirds of the qualifying tenants of flats contained in any premises to which this Chapter applies desire to make a claim to exercise the right to collective enfranchisement in relation to those premises, and
- (b) paragraph (b) of subsection (1) does not apply, but
- (c) a notice of that claim or (as the case may be) a copy of such a notice cannot be given in accordance with section 13 or Part II of Schedule 3 to any person to whom it would otherwise be required to be so given because he cannot be found or his identity cannot be ascertained,
- the court may, on the application of the qualifying tenants in question, make an order dispensing with the need to give such a notice or (as the case may be) a copy of such a notice to that person.
- (3) If that person is the person who owns the freehold of the premises, then on the application of those tenants, the court may, in connection with an order under subsection (2), make an order appointing any other relevant landlord to be the

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reversioner in respect of the premises in place of that person; and if it does so references in this Chapter to the reversioner shall apply accordingly.

- (4) The court shall not make an order on any application under subsection (1) or (2) unless it is satisfied—
- (a) that on the date of the making of the application the premises to which the application relates were premises to which this Chapter applies; and
 - (b) that on that date the applicants would not have been precluded by any provision of this Chapter from giving a valid notice under section 13 with respect to those premises.
- (5) Before making any such order the court may require the applicants to take such further steps by way of advertisement or otherwise as the court thinks proper for the purpose of tracing the person or persons in question; and if, after an application is made for a vesting order under subsection (1) and before any interest is vested in pursuance of the application, the person or (as the case may be) any of the persons referred to in paragraph (a) or (b) of that subsection is traced, then no further proceedings shall be taken with a view to any interest being so vested, but (subject to subsection (6))—
- (a) the rights and obligations of all parties shall be determined as if the applicants had, at the date of the application, duly given notice under section 13 of their claim to exercise the right to collective enfranchisement in relation to the premises to which the application relates; and
 - (b) the 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 Chapter or of regulations made under this Part.
- (6) An application for a vesting order under subsection (1) may be withdrawn at any time before execution of a conveyance under section 27(3) and, after it is withdrawn, subsection (5)(a) above shall not apply; but where any step is taken (whether by the applicants or otherwise) for the purpose of giving effect to subsection (5)(a) in the case of any application, the application shall not afterwards be withdrawn except—
- (a) with the consent of every person who is the owner of any interest the vesting of which is sought by the applicants, or
 - (b) by leave of the court,
- and the 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 applicants in consequence of the tracing of any such person.
- (7) Where an order has been made under subsection (2) dispensing with the need to give a notice under section 13, or a copy of such a notice, to a particular person with respect to any particular premises, then if—
- (a) a notice is subsequently given under that section with respect to those premises, and
 - (b) in reliance on the order, the notice or a copy of the notice is not to be given to that person,
- the notice must contain a statement of the effect of the order.
- (8) Where a notice under section 13 contains such a statement in accordance with subsection (7) above, then in determining for the purposes of any provision of this Chapter whether the requirements of section 13 or Part II of Schedule 3 have been complied with in relation to the notice, those requirements shall be deemed to have

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been complied with so far as relating to the giving of the notice or a copy of it to the person referred to in subsection (7) above.

- (9) Rules of court shall make provision—
- (a) for requiring notice of any application under subsection (3) to be served by the persons making the application on any person who the applicants know or have reason to believe is a relevant landlord; and
 - (b) for enabling persons served with any such notice to be joined as parties to the proceedings.

Commencement Information

- II** S. 26 wholly in force; s. 26 not in force at Royal Assent see s. 188(2); s. 26(9) in force for certain purposes at 2.9.1993 by S.I. 1993/2134, art. 3; s. 26 in force at 1.11.1993 in so far as it was not in force, by S.I. 1993/2134, art. 5(a)

27 Supplementary provisions relating to vesting orders under section 26(1).

- (1) A vesting order under section 26(1) is an order providing for the vesting of any such interests as are referred to in paragraph (i) or (ii) of that provision—
- (a) in such person or persons as may be appointed for the purpose by the applicants for the order, and
 - (b) on such terms as may be determined by a leasehold valuation tribunal to be appropriate with a view to the interests being vested in that person or those persons in like manner (so far as the circumstances permit) as if the applicants had, at the date of their application, given notice under section 13 of their claim to exercise the right to collective enfranchisement in relation to the premises with respect to which the order is made.
- (2) If a leasehold valuation tribunal so determines in the case of a vesting order under section 26(1), the order shall have effect in relation to interests which are less extensive than those specified in the application on which the order was made.
- (3) Where any interests are to be vested in any person or persons by virtue of a vesting order under section 26(1), then on his or their paying into court the appropriate sum in respect of each of those interests there shall be executed by such person as the court may designate a conveyance which—
- (a) is in a form approved by a leasehold valuation tribunal, and
 - (b) contains such provisions as may be so approved for the purpose of giving effect so far as possible to the requirements of section 34 and Schedule 7;
- and that conveyance shall be effective to vest in the person or persons to whom the conveyance is made the interests expressed to be conveyed, subject to and in accordance with the terms of the conveyance.
- (4) In connection with the determination by a leasehold valuation tribunal of any question as to the interests to be conveyed by any such conveyance, or as to the rights with or subject to which they are to be conveyed, it shall be assumed (unless the contrary is shown) that any person whose interests are to be conveyed (“the transferor”) has no interest in property other than those interests and, for the purpose of excepting them from the conveyance, any minerals underlying the property in question.

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- (5) The appropriate sum which in accordance with subsection (3) is to be paid into court in respect of any interest is the aggregate of—
- (a) such amount as may be determined by a leasehold valuation tribunal to be the price which would be payable in respect of that interest in accordance with Schedule 6 if the interest were being acquired in pursuance of such a notice as is mentioned in subsection (1)(b); and
 - (b) any amounts or estimated amounts determined by such a tribunal as being, at the time of execution of the conveyance, due to the transferor from any tenants of his of premises comprised in the premises in which that interest subsists (whether due under or in respect of their leases or under or in respect of agreements collateral thereto).
- (6) Where any interest is vested in any person or persons in accordance with this section, the payment into court of the appropriate sum in respect of that interest shall be taken to have satisfied any claims against the applicants for the vesting order under section 26(1), their personal representatives or assigns in respect of the price payable under this Chapter for the acquisition of that interest.
- (7) Where any interest is so vested in any person or persons, section 32(5) shall apply in relation to his or their acquisition of that interest as it applies in relation to the acquisition of any interest by a nominee purchaser.

Termination of acquisition procedures

28 Withdrawal from acquisition by participating tenants.

- (1) At any time before a binding contract is entered into in pursuance of the initial notice, the participating tenants may withdraw that notice by the giving of a notice to that effect under this section (“a notice of withdrawal”).
- (2) A notice of withdrawal must be given—
- (a) to the nominee purchaser;
 - (b) to the reversioner in respect of the specified premises; and
 - (c) to every other relevant landlord who is known or believed by the participating tenants to have given to the nominee purchaser a notice under paragraph 7(1) or (4) of Schedule 1;
- and, if by virtue of paragraph (c) a notice of withdrawal falls to be given to any person falling within that paragraph, it shall state that he is a recipient of the notice.
- (3) The nominee purchaser shall, on receiving a notice of withdrawal, give a copy of it to every relevant landlord who—
- (a) has given to the nominee purchaser such a notice as is mentioned in subsection (2)(c); and
 - (b) is not stated in the notice of withdrawal to be a recipient of it.
- (4) Where a notice of withdrawal is given by the participating tenants under subsection (1) —
- (a) those persons, and
 - (b) (subject to subsection (5)) every other person who is not a participating tenant for the time being but has at any time been such a tenant,
- shall be liable—

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- (i) to the reversioner, and
 - (ii) to every other relevant landlord,
- for all relevant costs incurred by him in pursuance of the initial notice down to the time when the notice of withdrawal or a copy of it is given to him in accordance with subsection (2) or (3).
- (5) A person falling within paragraph (b) of subsection (4) shall not be liable for any costs by virtue of that subsection if—
- (a) the lease in respect of which he was a participating tenant has been assigned to another person; and
 - (b) that other person has become a participating tenant in accordance with section 14(4);
- and in paragraph (a) above the reference to an assignment shall be construed in accordance with section 14(10).
- (6) Where any liability for costs arises under subsection (4)—
- (a) it shall be a joint and several liability of the persons concerned; and
 - (b) the nominee purchaser shall not be liable for any costs under section 33.
- (7) In subsection (4) “relevant costs”, in relation to the reversioner or any other relevant landlord, means costs for which the nominee purchaser would (apart from subsection (6)) be liable to that person under section 33.

29 Deemed withdrawal of initial notice.

- (1) Where, in a case falling within paragraph (a) of subsection (1) of section 22—
- (a) no application for an order under that subsection is made within the period specified in subsection (2) of that section, or
 - (b) such an application is so made but is subsequently withdrawn,
- the initial notice shall be deemed to have been withdrawn—
- (i) (if paragraph (a) above applies) at the end of that period, or
 - (ii) (if paragraph (b) above applies) on the date of the withdrawal of the application.
- (2) Where—
- (a) in a case to which subsection (1) of section 24 applies, no application under that subsection is made within the period specified in subsection (2) of that section, or
 - (b) in a case to which subsection (3) of that section applies, no application for an order under subsection (4) of that section is made within the period specified in subsection (5) of that section,
- the initial notice shall be deemed to have been withdrawn at the end of the period referred to in paragraph (a) or (b) above (as the case may be).
- (3) Where, in a case falling within paragraph (a) or (b) of subsection (1) of section 25, no application for an order under that subsection is made within the period specified in subsection (4) of that section, the initial notice shall be deemed to have been withdrawn at the end of that period.
- (4) Where, in a case to which subsection (5) of section 25 applies, no application for an order under subsection (6) of that section is made within the period specified in

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subsection (7) of that section, the initial notice shall be deemed to have been withdrawn at the end of that period.

(5) The following provisions, namely—

- (a) section 15(10),
- (b) section 16(8),
- (c) section 20(3),
- (d) section 24(4)(c), and
- (e) section 25(6)(c),

also make provision for a notice under section 13 to be deemed to have been withdrawn at a particular time.

(6) Where the initial notice is deemed to have been withdrawn at any time by virtue of any provision of this Chapter, subsections (4) and (5) of section 28 shall apply for the purposes of this section in like manner as they apply where a notice of withdrawal is given under that section, but as if the reference in subsection (4) of that section to the time when a notice or copy is given as there mentioned were a reference to the time when the initial notice is so deemed to have been withdrawn.

(7) Where the initial notice is deemed to have been withdrawn by virtue of section 15(10) or 16(8)—

- (a) the liability for costs arising by virtue of subsection (6) above shall be a joint and several liability of the persons concerned; and
- (b) the nominee purchaser shall not be liable for any costs under section 33.

(8) In the provisions applied by subsection (6), “relevant costs”, in relation to the reversioner or any other relevant landlord, means costs for which the nominee purchaser is, or would (apart from subsection (7)) be, liable to that person under section 33.

30 Effect on initial notice or subsequent contract of institution of compulsory acquisition procedures.

(1) A notice given under section 13 shall be of no effect if on the relevant date—

- (a) any acquiring authority has, with a view to the acquisition of the whole or part of the specified premises for any authorised purpose—
 - (i) served notice to treat on any relevant person, or
 - (ii) entered into a contract for the purchase of the interest of any such person in the premises or part of them, and
- (b) the notice to treat or contract remains in force.

(2) In subsection (1) “relevant person”, in relation to the specified premises, means—

- (a) the person who owns the freehold of the premises; or
- (b) any other person who owns any leasehold interest in the premises which is specified in the initial notice under section 13(3)(c)(i).

(3) A notice given under section 13 shall not specify under subsection (3)(a)(ii) or (c)(i) of that section any property or leasehold interest in property if on the relevant date—

- (a) any acquiring authority has, with a view to the acquisition of the whole or part of the property for any authorised purpose—
 - (i) served notice to treat on the person who owns the freehold of, or any such leasehold interest in, the property, or

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- (ii) entered into a contract for the purchase of the interest of any such person in the property or part of it, and
 - (b) the notice to treat or contract remains in force.
- (4) A notice given under section 13 shall cease to have effect if, before a binding contract is entered into in pursuance of the notice, any acquiring authority serves, with a view to the acquisition of the whole or part of the specified premises for any authorised purpose, notice to treat as mentioned in subsection (1)(a).
- (5) Where any such authority so serves notice to treat at any time after a binding contract is entered into in pursuance of the notice given under section 13 but before completion of the acquisition by the nominee purchaser under this Chapter, then (without prejudice to the general law as to the frustration of contracts) the parties to the contract shall be discharged from the further performance of the contract.
- (6) Where subsection (4) or (5) applies in relation to the initial notice or any contract entered into in pursuance of it, then on the occasion of the compulsory acquisition in question the compensation payable in respect of any interest in the specified premises (whether or not the one to which the relevant notice to treat relates) shall be determined on the basis of the value of the interest—
- (a) (if subsection (4) applies) subject to and with the benefit of the rights and obligations arising from the initial notice and affecting that interest; or
 - (b) (if subsection (5) applies) subject to and with the benefit of the rights and obligations arising from the contract and affecting that interest.
- (7) In this section—
- (a) “acquiring authority”, in relation to the specified premises or any other property, means any person or body of persons who has or have been, or could be, authorised to acquire the whole or part of those premises or that property compulsorily for any purpose; and
 - (b) “authorised purpose”, in relation to any acquiring authority, means any such purpose.

31 Effect on initial notice of designation for inheritance tax purposes and applications for designation.

- (1) A notice given under section 13 shall be of no effect if on the relevant date the whole or any part of—
- (a) the specified premises, or
 - (b) any property specified in the notice under section 13(3)(a)(ii),
- is qualifying property.
- (2) For the purposes of this section the whole or any part of the specified premises, or of any property specified as mentioned in subsection (1), is qualifying property if—
- (a) it has been designated under section 31(1)(b), (c) or (d) of the ^{M14}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

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- (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) 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 given under section 13 shall cease to have effect if, before a binding contract is entered into in pursuance of the notice, the whole or any part of—
- (a) the specified premises, or
 - (b) any property specified in the notice under section 13(3)(a)(ii), becomes qualifying property.
- (5) Where a notice under section 13 ceases to have effect by virtue of subsection (4) above—
- (a) the nominee purchaser shall not be liable for any costs under section 33; and
 - (b) the person who applied or is applying for designation or a direction shall be liable—
 - (i) to the qualifying tenants by whom the notice was given for all reasonable costs incurred by them in the preparation and giving of the notice; and
 - (ii) to the nominee purchaser for all reasonable costs incurred in pursuance of the notice by him or by any other person who has acted as the nominee purchaser.
- (6) Where it is claimed that subsection (1) or (4) applies in relation to a notice under section 13, the person making the claim shall, at the time of making it, furnish the nominee purchaser 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 nominee purchaser in consequence of the failure.
- (7) In subsection (2)—
- (a) paragraphs (a) and (b) apply to designation under section 34(1)(a), (b) or (c) of the ^{M15}Finance Act 1975 or section 77(1)(b), (c) or (d) of the ^{M16}Finance Act 1976 as they apply to designation under section 31(1)(b), (c) or (d) of the ^{M17}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 ^{M18}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).

Status: Point in time view as at 01/11/1993. This version of this chapter contains provisions that are not valid for this point in time.

Changes to legislation: Leasehold Reform, Housing and Urban Development Act 1993, Chapter 1 is up to date with all changes known to be in force on or before 18 April 2024. There are changes that may be brought into force at a future date. Changes that have been made appear in the content and are referenced with annotations. (See end of Document for details)

Marginal Citations

M14 1984 c. 51.

M15 1975 c. 7.

M16 1976 c. 40.

M17 1984 c. 51.

M18 1984 c. 51.

Determination of price and costs of enfranchisement

32 Determination of price.

- (1) Schedule 6 to this Act (which relates to the determination of the price payable by the nominee purchaser in respect of each of the freehold and other interests to be acquired by him in pursuance of this Chapter) shall have effect.
- (2) The lien of the owner of any such interest (as vendor) on the specified premises, or (as the case may be) on any other property, for the price payable shall extend—
 - (a) to any amounts which, at the time of the conveyance of that interest, are due to him from any tenants of his of premises comprised in the premises in which that interest subsists (whether due under or in respect of their leases or under or in respect of agreements collateral thereto); and
 - (b) to any amount payable to him by virtue of section 18(2); and
 - (c) to any costs payable to him by virtue of section 33.
- (3) Subsection (2)(a) does not apply in relation to amounts due to the owner of any such interest from tenants of any premises which are to be comprised in the premises demised by a lease granted in accordance with section 36 and Schedule 9.
- (4) In subsection (2) the reference to the specified premises or any other property includes a reference to a part of those premises or that property.
- (5) Despite the fact that in accordance with Schedule 6 no payment or only a nominal payment is payable by the nominee purchaser in respect of the acquisition by him of any interest he shall nevertheless be deemed for all purposes to be a purchaser of that interest for a valuable consideration in money or money's worth.

33 Costs of enfranchisement.

- (1) Where a notice is given under section 13, then (subject to the provisions of this section and sections 28(6), 29(7) and 31(5)) the nominee purchaser shall be liable, to the extent that they have been incurred in pursuance of the notice by the reversioner or by any other relevant landlord, for the reasonable costs of and incidental to any of the following matters, namely—
 - (a) any investigation reasonably undertaken—
 - (i) of the question whether any interest in the specified premises or other property is liable to acquisition in pursuance of the initial notice, or
 - (ii) of any other question arising out of that notice;
 - (b) deducing, evidencing and verifying the title to any such interest;
 - (c) making out and furnishing such abstracts and copies as the nominee purchaser may require;

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- (d) any valuation of any interest in the specified premises or other property;
 - (e) any conveyance of any such interest;
- but 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.
- (2) For the purposes of subsection (1) any costs incurred by the reversioner or any other relevant landlord in respect of professional services rendered by any person shall only be regarded as reasonable if and to the extent that costs in respect of such services might reasonably be expected to have been incurred by him if the circumstances had been such that he was personally liable for all such costs.
 - (3) Where by virtue of any provision of this Chapter the initial notice ceases to have effect at any time, then (subject to subsection (4)) the nominee purchaser's liability under this section for costs incurred by any person shall be a liability for costs incurred by him down to that time.
 - (4) The nominee purchaser shall not be liable for any costs under this section if the initial notice ceases to have effect by virtue of section 23(4) or 30(4).
 - (5) The nominee purchaser shall not be liable under this section for any costs which a party to any proceedings under this Chapter before a leasehold valuation tribunal incurs in connection with the proceedings.
 - (6) In this section references to the nominee purchaser include references to any person whose appointment has terminated in accordance with section 15(3) or 16(1); but this section shall have effect in relation to such a person subject to section 15(7).
 - (7) Where by virtue of this section, or of this section and section 29(6) taken together, two or more persons are liable for any costs, they shall be jointly and severally liable for them.

Completion of acquisition

34 Conveyance to nominee purchaser.

- (1) Any conveyance executed for the purposes of this Chapter, being a conveyance to the nominee purchaser of the freehold of the specified premises or of any other property, shall grant to the nominee purchaser an estate in fee simple absolute in those premises or that property, subject only to such incumbrances as may have been agreed or determined under this Chapter to be incumbrances subject to which that estate should be granted, having regard to the following provisions of this Chapter.
- (2) Any such conveyance shall, where the nominee purchaser is to acquire any leasehold interest in the specified premises or (as the case may be) in the other property to which the conveyance relates, provide for the disposal to the nominee purchaser of any such interest.
- (3) Any conveyance executed for the purposes of this Chapter shall have effect under section 2(1) of the ^{M19}Law of Property Act 1925 (conveyances overreaching certain equitable interests etc.) to overreach any incumbrance capable of being overreached under section 2(1)—
 - (a) as if, where the interest conveyed is settled land for the purposes of the ^{M20}Settled Land Act 1925, the conveyance were made under the powers of that Act, and

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- (b) 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 section 35 below or Schedule 8 to this Act to be so paid or applied.
- (4) For the purposes of this section “incumbrances” includes—
- (a) rentcharges, and
 - (b) (subject to subsection (5)) personal liabilities attaching in respect of the ownership of land or an interest in land though not charged on that land or interest.
- (5) 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 the purposes of this section; but any conveyance executed for the purposes of this Chapter shall be made subject to any such burdens.
- (6) A conveyance executed for the purposes of this Chapter 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—
- (a) rentcharges redeemable under sections 8 to 10 of the ^{M21}Rentcharges Act 1977, and
 - (b) 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 subsections (7) and (8) below.
- (7) Where any land is to be conveyed to the nominee purchaser by a conveyance executed for the purposes of this Chapter, subsection (6) shall not preclude the person who owns the freehold interest in the land from releasing, or procuring the release of, the land from any rentcharge.
- (8) The conveyance of any such land (“the relevant land”) may, with the agreement of the nominee purchaser (which shall not be unreasonably withheld), provide in accordance with section 190(1) of the ^{M22}Law of Property Act 1925 (charging of rentcharges on land without rent owner’s consent) that a rentcharge—
- (a) shall be charged exclusively on other land affected by it in exoneration of the relevant land, or
 - (b) shall be apportioned between other land affected by it and the relevant land.
- (9) Except to the extent that any departure is agreed to by the nominee purchaser and the person whose interest is to be conveyed, any conveyance executed for the purposes of this Chapter shall—
- (a) as respects the conveyance of any freehold interest, conform with the provisions of Schedule 7, and
 - (b) as respects the conveyance of any leasehold interest, conform with the provisions of paragraph 2 of that Schedule (any reference in that paragraph to the freeholder being read as a reference to the person whose leasehold interest is to be conveyed).
- (10) Any such conveyance shall in addition contain a statement that it is a conveyance executed for the purposes of this Chapter; and any such statement shall comply with such requirements as may be prescribed by rules made in pursuance of section 144 of the ^{M23}Land Registration Act 1925 (power to make general rules).

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Marginal Citations

M19 1925 c. 20.

M20 1925 c. 18.

M21 1977 c. 30.

M22 1925 c. 20.

M23 1925 c. 21.

35 Discharge of existing mortgages on transfer to nominee purchaser.

- (1) Subject to the provisions of Schedule 8, where any interest is acquired by the nominee purchaser in pursuance of this Chapter, the conveyance by virtue of which it is so acquired shall, as regards any mortgage to which this section applies, be effective by virtue of this section—
 - (a) to discharge the interest from the mortgage, and from the operation of any order made by a court for the enforcement of the mortgage, and
 - (b) to extinguish any term of years created for the purposes of the mortgage, and shall do so without the persons entitled to or interested in the mortgage or in any such order or term of years becoming parties to or executing the conveyance.
- (2) Subject to subsections (3) and (4), this section applies to any mortgage of the interest so acquired (however created or arising) which—
 - (a) is a mortgage to secure the payment of money or the performance of any other obligation by the person from whom the interest is so acquired or any other person; and
 - (b) is not a mortgage which would be overreached apart from this section.
- (3) This section shall not apply to any such mortgage if it has been agreed between the nominee purchaser and the reversioner or (as the case may be) any other relevant landlord that the interest in question should be acquired subject to the mortgage.
- (4) In this section and Schedule 8 “mortgage” includes a charge or lien; but neither this section nor that Schedule applies to a rentcharge.

36 Nominee purchaser required to grant leases back to former freeholder in certain circumstances.

- (1) In connection with the acquisition by him of the freehold of the specified premises, the nominee purchaser shall grant to the person from whom the freehold is acquired such leases of flats or other units contained in those premises as are required to be so granted by virtue of Part II or III of Schedule 9.
- (2) Any such lease shall be granted so as to take effect immediately after the acquisition by the nominee purchaser of the freehold of the specified premises.
- (3) Where any flat or other unit demised under any such lease (“the relevant lease”) is at the time of that acquisition subject to any existing lease, the relevant lease shall take effect as a lease of the freehold reversion in respect of the flat or other unit.
- (4) Part IV of Schedule 9 has effect with respect to the terms of a lease granted in pursuance of Part II or III of that Schedule.

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37 Acquisition of interests from local authorities etc.

Schedule 10 to this Act (which makes provision with respect to the acquisition of interests from local authorities etc. in pursuance of this Chapter) shall have effect.

VALID FROM 01/10/1996

^{F3} Landlord's right to compensation in relation to ineffective claims]

Textual Amendments

F3 Ss. 37A, 37B and crossheading inserted (1.10.1996) by 1996 c. 52, s. 116, **Sch. 11 para. 2(1)**; S.I. 1996/2212, **art. 2**

^{F4}37A Compensation for postponement of termination in connection with ineffective claims.

- (1) This section applies where a claim to exercise the right to collective enfranchisement in respect of any premises is made on or after 15th January 1999 by tenants of flats contained in the premises and the claim is not effective.
- (2) A person who is a participating tenant immediately before the claim ceases to have effect shall be liable to pay compensation if—
 - (a) the claim was not made at least two years before the term date of the lease by virtue of which he is a qualifying tenant (“the existing lease”), and
 - (b) any of the conditions mentioned in subsection (3) is met.
- (3) The conditions referred to above are—
 - (a) that the making of the claim caused a notice served under paragraph 4(1) of Schedule 10 to the Local Government and Housing Act 1989 in respect of the existing lease 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) that 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 in respect of the existing lease (but did not cause a notice served under that provision in respect of that lease 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 existing lease, and
 - (c) that the existing lease has been continued under paragraph 6(1) of Schedule 3 by virtue of the claim.
- (4) Compensation under subsection (2) 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.
- (5) The amount which a tenant is liable to pay under subsection (2) shall be equal to the difference between—
 - (a) the rent for the appropriate period under the existing lease, and
 - (b) the rent which might reasonably be expected to be payable for that period were the property to which the existing lease relates let for a term equivalent

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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 lease.

(6) For the purposes of subsections (4) and (5), the appropriate period is—

- (a) in a case falling within paragraph (a) of subsection (3), 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 ^{M24}Local Government and Housing Act 1989 in respect of the existing lease served immediately after the date on which the claim ceases to have effect, or, if the existing lease is terminated before then, with the date of its termination;
- (b) in a case falling within paragraph (b) of subsection (3), 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 lease, and
 - (ii) ending six months after the date on which the claim ceases to have effect, or, if the existing lease is terminated before then, with the date of its termination; and
- (c) in a case falling within paragraph (c) of subsection (3), the period for which the existing lease is continued under paragraph 6(1) of Schedule 3.

(7) In the case of a person who becomes a participating tenant by virtue of an election under section 14(3), the references in subsections (3)(a) and (b) and (6)(b)(i) to the making of the claim shall be construed as references to the making of the election.

(8) For the purposes of this section—

- (a) references to a claim to exercise the right to collective enfranchisement shall be taken as references to a notice given, or purporting to be given (whether by persons who are qualifying tenants or not), under section 13,
- (b) references to the date on which a claim ceases to have effect shall, in the case of a claim made by a notice which is not a valid notice under section 13, be taken as references to the date on which the notice is set aside by the court or is withdrawn or would, if valid, cease to have effect or be deemed to have been withdrawn, 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, and
- (c) a claim to exercise the right to collective enfranchisement is not effective if it ceases to have effect for any reason other than—
 - (i) the application of section 23(4), 30(4) or 31(4),
 - (ii) the entry into a binding contract for the acquisition of the freehold and other interests falling to be acquired in pursuance of the claim, or
 - (iii) the making of an order under section 24(4)(a) or (b) or 25(6)(a) or (b) which provides for the vesting of those interests.]

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Textual Amendments

F4 Ss. 37A, 37B and crossheading inserted (1.10.1996) by 1996 c. 52, s. 116, **Sch. 11 para. 2(1)**; S.I. 1996/2212, **art. 2**

Marginal Citations

M24 1989 c. 42.

[^{F5}37B Modification of section 37A where change in immediate reversion.

- (1) Where a tenant's liability to pay compensation under section 37A relates to a period during which there has been a change in the interest immediately expectant on the determination of his lease, that section shall have effect with the following modifications.
- (2) For subsections (4) and (5) there shall be substituted—
 - (“ Compensation under subsection (2) 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 lease.
- (5) Compensation under subsection (2) above shall—
 - (a) in the case of the interest which is immediately expectant on the determination of the existing lease 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 lease, be the right of the person in whom the interest was vested immediately before it ceased to be so expectant.
- (5A) 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 lease for the part of the appropriate period during which the interest was immediately expectant on the determination of that lease, 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 lease 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 lease.”
- (3) In subsection (6), for “(4) and (5)” there shall be substituted “(4) to (5A)”.]

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Textual Amendments

F5 Ss. 37A, 37B and crossheading inserted (1.10.1996) by 1996 c. 52, s. 116, **Sch. 11 para. 2(1)**; S.I. 1996/2212, **art. 2**

Supplemental

38 Interpretation of Chapter I.

- (1) In this Chapter (unless the context otherwise requires)—
- “conveyance” includes assignment, transfer and surrender, and related expressions shall be construed accordingly;
 - “the initial notice” means the notice given under section 13;
 - “the nominee purchaser” shall be construed in accordance with section 15;
 - “the participating tenants” shall be construed in accordance with section 14;
 - “premises with a resident landlord” shall be construed in accordance with section 10;
 - “public sector landlord” means any of the persons listed in section 171(2) of the ^{M25}Housing Act 1985;
 - “qualifying tenant” shall be construed in accordance with section 5;
 - “the relevant date” has the meaning given by section 1(8);
 - “relevant landlord” and “the reversioner” shall be construed in accordance with section 9;
 - “the right to collective enfranchisement” means the right specified in section 1(1);
 - “secure tenancy” has the meaning given by section 79 of the Housing Act 1985;
 - “the specified premises” shall be construed in accordance with section 13(12);
 - “the terms of acquisition” has the meaning given by section 24(8);
 - “unit” means—
 - (a) a flat;
 - (b) any other separate set of premises which is constructed or adapted for use for the purposes of a dwelling; or
 - (c) a separate set of premises let, or intended for letting, on a business lease.
- (2) Any reference in this Chapter (however expressed) to the acquisition or proposed acquisition by the nominee purchaser is a reference to the acquisition or proposed acquisition by the nominee purchaser, on behalf of the participating tenants, of such freehold and other interests as fall to be so acquired under a contract entered into in pursuance of the initial notice.
- (3) Any reference in this Chapter to the interest of a relevant landlord in the specified premises is a reference to the interest in those premises by virtue of which he is, in accordance with section 9(2)(b), a relevant landlord.
- (4) Any reference in this Chapter to agreement in relation to all or any of the terms of acquisition is a reference to agreement subject to contract.

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Marginal Citations

M25 1985 c. 68.

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