



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

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.
- (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

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- (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.
- (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

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- (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—
- (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

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- (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,
 - (d) the apportionment of conditions or other matters in connection with the severance of any reversionary interest, or

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(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 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

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- (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 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.

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- (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 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.

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- (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.
- (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—

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- (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.

Status:

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