



Leasehold Reform, Housing and Urban Development Act 1993

1993 CHAPTER 28

PART I

LANDLORD AND TENANT

CHAPTER II

INDIVIDUAL RIGHT OF TENANT OF FLAT TO ACQUIRE NEW LEASE

Grant of new lease

56 **Obligation to grant new lease**

- (1) Where a qualifying tenant of a flat has under this Chapter a right to acquire a new lease of the flat and gives notice of his claim in accordance with section 42, then except as provided by this Chapter the landlord shall be bound to grant to the tenant, and the tenant shall be bound to accept—
 - (a) in substitution for the existing lease, and
 - (b) on payment of the premium payable under Schedule 13 in respect of the grant, a new lease of the flat at a peppercorn rent for a term expiring 90 years after the term date of the existing lease.
- (2) In addition to any such premium there shall be payable by the tenant in connection with the grant of any such new lease such amounts to the owners of any intermediate leasehold interests (within the meaning of Schedule 13) as are so payable by virtue of that Schedule.
- (3) A tenant shall not be entitled to require the execution of any such new lease otherwise than on tendering to the landlord, in addition to the amount of any such premium

and any other amounts payable by virtue of Schedule 13, the amount so far as ascertained—

- (a) of any sums payable by him by way of rent or recoverable from him as rent in respect of the flat up to the date of tender;
- (b) of any sums for which at that date the tenant is liable under section 60 in respect of costs incurred by any relevant person (within the meaning of that section); and
- (c) of any other sums due and payable by him to any such person under or in respect of the existing lease;

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

- (4) To the extent that any amount tendered to the landlord in accordance with subsection (3) is an amount due to a person other than the landlord, that amount shall be payable to that person by the landlord; and that subsection has effect subject to paragraph 7(2) of Schedule 11.
- (5) No provision of any lease prohibiting, restricting or otherwise relating to a sub-demise by the tenant under the lease shall have effect with reference to the granting of any lease under this section.
- (6) It is hereby declared that nothing in any of the provisions specified in paragraph 1(2) of Schedule 10 (which impose requirements as to consent or consultation or other restrictions in relation to disposals falling within those provisions) applies to the granting of any lease under this section.
- (7) For the purposes of subsection (6), paragraph 1(2) of Schedule 10 has effect as if the reference to section 79(2) of the Housing Act 1988 (which is not relevant in the context of subsection (6)) were omitted.

57 Terms on which new lease is to be granted

- (1) Subject to the provisions of this Chapter (and in particular to the provisions as to rent and duration contained in section 56(1)), the new lease to be granted to a tenant under section 56 shall be a lease on the same terms as those of the existing lease, as they apply on the relevant date, but with such modifications as may be required or appropriate to take account—
 - (a) of the omission from the new lease of property included in the existing lease but not comprised in the flat;
 - (b) of alterations made to the property demised since the grant of the existing lease; or
 - (c) in a case where the existing lease derives (in accordance with section 7(6) as it applies in accordance with section 39(3)) from more than one separate leases, of their combined effect and of the differences (if any) in their terms.
- (2) Where during the continuance of the new lease the landlord will be under any obligation for the provision of services, or for repairs, maintenance or insurance—
 - (a) the new lease may require payments to be made by the tenant (whether as rent or otherwise) in consideration of those matters or in respect of the cost thereof to the landlord; and
 - (b) (if the terms of the existing lease do not include any provision for the making of any such payments by the tenant or include provision only for the payment

of a fixed amount) the terms of the new lease shall make, as from the term date of the existing lease, such provision as may be just—

- (i) for the making by the tenant of payments related to the cost from time to time to the landlord, and
 - (ii) for the tenant's liability to make those payments to be enforceable by distress, re-entry or otherwise in like manner as if it were a liability for payment of rent.
- (3) Subject to subsection (4), provision shall be made by the terms of the new lease or by an agreement collateral thereto for the continuance, with any suitable adaptations, of any agreement collateral to the existing lease.
- (4) For the purposes of subsections (1) and (3) there shall be excluded from the new lease any term of the existing lease or of any agreement collateral thereto in so far as that term—
 - (a) provides for or relates to the renewal of the lease,
 - (b) confers any option to purchase or right of pre-emption in relation to the flat demised by the existing lease, or
 - (c) provides for the termination of the existing lease before its term date otherwise than in the event of a breach of its terms;and there shall be made in the terms of the new lease or any agreement collateral thereto such modifications as may be required or appropriate to take account of the exclusion of any such term.
- (5) Where the new lease is granted after the term date of the existing lease, then on the grant of the new lease there shall be payable by the tenant to the landlord, as an addition to the rent payable under the existing lease, any amount by which, for the period since the term date or the relevant date (whichever is the later), the sums payable to the landlord in respect of the flat (after making any necessary apportionment) for the matters referred to in subsection (2) fall short in total of the sums that would have been payable for such matters under the new lease if it had been granted on that date; and section 56(3)(a) shall apply accordingly.
- (6) Subsections (1) to (5) shall have effect subject to any agreement between the landlord and tenant as to the terms of the new lease or any agreement collateral thereto; and either of them may require that for the purposes of the new lease any term of the existing lease shall be excluded or modified in so far as—
 - (a) it is necessary to do so in order to remedy a defect in the existing lease; or
 - (b) it would be unreasonable in the circumstances to include, or include without modification, the term in question in view of changes occurring since the date of commencement of the existing lease which affect the suitability on the relevant date of the provisions of that lease.
- (7) The terms of the new lease shall—
 - (a) make provision in accordance with section 59(3); and
 - (b) reserve to the person who is for the time being the tenant's immediate landlord the right to obtain possession of the flat in question in accordance with section 61.
- (8) In granting the new lease the landlord shall not be bound to enter into any covenant for title beyond that implied from the grant, and a person entering into any covenant required of him as landlord shall be entitled to limit his personal liability to breaches of that covenant for which he is responsible.

- (9) Where any person—
- (a) is a third party to the existing lease, or
 - (b) (not being the landlord or tenant) is a party to any agreement collateral thereto,
- then (subject to any agreement between him and the landlord and the tenant) he shall be made a party to the new lease or (as the case may be) to an agreement collateral thereto, and shall accordingly join in its execution; but nothing in this section has effect so as to require the new lease or (as the case may be) any such collateral agreement to provide for him to discharge any function at any time after the term date of the existing lease.
- (10) Where—
- (a) any such person (“the third party”) is in accordance with subsection (9) to discharge any function down to the term date of the existing lease, but
 - (b) it is necessary or expedient in connection with the proper enjoyment by the tenant of the property demised by the new lease for provision to be made for the continued discharge of that function after that date,
- the new lease or an agreement collateral thereto shall make provision for that function to be discharged after that date (whether by the third party or by some other person).
- (11) The new lease shall contain a statement that it is a lease granted under section 56; and any such statement shall comply with such requirements as may be prescribed by rules made in pursuance of section 144 of the Land Registration Act 1925 (power to make general rules).

58 Grant of new lease where interest of landlord or tenant is subject to a mortgage

- (1) Subject to subsection (2), a qualifying tenant shall be entitled to be granted a new lease under section 56 despite the fact that the grant of the existing lease was subsequent to the creation of a mortgage on the landlord’s interest and not authorised as against the persons interested in the mortgage; and a lease granted under that section—
- (a) shall be deemed to be authorised as against the persons interested in any mortgage on the landlord’s interest (however created or arising), and
 - (b) shall be binding on those persons.
- (2) A lease granted under section 56 shall not, by virtue of subsection (1) above, be binding on the persons interested in any such mortgage if the existing lease—
- (a) is granted after the commencement of this Chapter, and
 - (b) being granted subsequent to the creation of the mortgage, would not, apart from that subsection, be binding on the persons interested in the mortgage.
- (3) Where—
- (a) a lease is granted under section 56, and
 - (b) any person having a mortgage on the landlord’s interest is thereby entitled to possession of the documents of title relating to that interest,
- the landlord shall, within one month of the execution of the lease, deliver to that person a counterpart of it duly executed by the tenant.
- (4) Where the existing lease is, immediately before its surrender on the grant of a lease under section 56, subject to any mortgage, the new lease shall take effect subject to the mortgage in substitution for the existing lease; and the terms of the mortgage, as

set out in the instrument creating or evidencing it, shall accordingly apply in relation to the new lease in like manner as they applied in relation to the existing lease.

(5) Where—

- (a) a lease granted under section 56 takes effect subject to any such subsisting mortgage on the existing lease, and
- (b) at the time of execution of the new lease the person having the mortgage is thereby entitled to possession of the documents of title relating to the existing lease,

he shall be similarly entitled to possession of the documents of title relating to the new lease; and the tenant shall deliver the new lease to him within one month of the date on which the lease is received from Her Majesty's Land Registry following its registration.

(6) Where—

- (a) the landlord fails to deliver a counterpart of the new lease in accordance with subsection (3), or
- (b) the tenant fails to deliver the new lease in accordance with subsection (5),

the instrument creating or evidencing the mortgage in question shall apply as if the obligation to deliver a counterpart or (as the case may be) deliver the lease were included in the terms of the mortgage as set out in that instrument.

(7) A landlord granting a lease under section 56 shall be bound to take such steps as may be necessary to secure that the lease is not liable in accordance with subsection (2) to be defeated by persons interested in a mortgage on his interest; but a landlord is not obliged, in order to grant a lease for the purposes of that section, to acquire a better title than he has or could require to be vested in him.

59 Further renewal, but no security of tenure, after grant of new lease

(1) The right to acquire a new lease under this Chapter may be exercised in relation to a lease of a flat despite the fact that the lease is itself a lease granted under section 56; and the provisions of this Chapter shall, with any necessary modifications, apply for the purposes of or in connection with any claim to exercise that right in relation to a lease so granted as they apply for the purposes of or in connection with any claim to exercise that right in relation to a lease which has not been so granted.

(2) Where a lease has been granted under section 56—

- (a) none of the statutory provisions relating to security of tenure for tenants shall apply to the lease;
- (b) after the term date of the lease none of the following provisions, namely—
 - (i) section 1 of the Landlord and Tenant Act 1954 or Schedule 10 to the Local Government and Housing Act 1989 (which make provision for security of tenure on the ending of long residential tenancies), or
 - (ii) Part II of that Act of 1954 (business tenancies),

shall apply to any sub-lease directly or indirectly derived out of the lease; and

- (c) after that date no person shall be entitled by virtue of any such sub-lease to retain possession under—
 - (i) Part VII of the Rent Act 1977 (security of tenure for protected tenancies etc.) or any enactment applying or extending that Part of that Act,

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- (ii) the Rent (Agriculture) Act 1976, or
 - (iii) Part I of the Housing Act 1988 (assured tenancies etc.).
- (3) Where a lease has been granted under section 56, no long lease created immediately or derivatively by way of sub-demise under the lease shall confer on the sub-tenant, as against the tenant's landlord, any right under this Chapter to acquire a new lease (and for this purpose "long lease" shall be construed in accordance with section 7).
- (4) Any person who—
 - (a) grants a sub-lease to which subsection (2)(b) and (c) will apply, or
 - (b) negotiates with a view to the grant of such a sub-lease by him or by a person for whom he is acting as agent,shall inform the other party that the sub-lease is to be derived out of a lease granted under section 56, unless either he knows that the other party is aware of it or he himself is unaware of it.
- (5) Where any lease contains a statement to the effect that it is a lease granted under section 56, the statement shall be conclusive for the purposes of subsections (2) to (4) in favour of any person who is not a party to the lease, unless the statement appears from the lease to be untrue.