



# Commonhold and Leasehold Reform Act 2002

## 2002 CHAPTER 15

### PART 2

#### LEASEHOLD REFORM

### CHAPTER 4

#### LEASEHOLD HOUSES

#### *Introductory*

#### **137 Amendments of 1967 Act**

This Chapter amends the Leasehold Reform Act 1967 (c. 88) (referred to in this Part as “the 1967 Act”).

#### *Qualifying rules*

#### **138 Abolition of residence test**

- (1) In subsection (1) of section 1 of the 1967 Act (tenants of houses entitled to enfranchisement or extension), omit—
  - (a) “, occupying the house as his residence,” and
  - (b) “, and occupying it as his residence,”.
- (2) After that subsection insert—

“(1ZA) Where a house is for the time being let under two or more tenancies, a tenant under any of those tenancies which is superior to that held by any tenant on

---

*Status: This is the original version (as it was originally enacted).*

---

whom this Part of this Act confers a right does not have any right under this Part of this Act.

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

- (a) for the last two years; or
- (b) for periods amounting to two years in the last ten years.”

- (3) In subsection (3) of that section (exception where house is let to and occupied by tenant with other land or premises to which it is ancillary), for “occupation of it as his residence (but shall apply as if he were not so occupying it)” substitute “being a tenant of it”.
- (4) In section 2(4) of the 1967 Act (premises previously let with house), for “occupied and used as mentioned in subsection (3) above” substitute “subject to a tenancy vested in him”.
- (5) In section 6(1) of the 1967 Act (rights in case of trusts), for the words from the beginning to “right of the tenancy” substitute “A tenant of a house shall for purposes of this Part of this Act be treated as having been a tenant of it at any earlier time”.
- (6) In section 7(3) and (4) of the 1967 Act (rights of members of family succeeding to tenancy on death), for “with him” substitute “in the house”.

### **139 Reduction of qualifying period as tenant etc**

- (1) In subsection (1)(b) of section 1 of the 1967 Act (requirement that person claiming entitlement to enfranchisement or extension has been tenant of house for last three years or for periods amounting to three years in last ten), for “three years or for periods amounting to three years in the last ten years” substitute “two years”.
- (2) After subsection (1A) of that section insert—
  - “(1B) This Part of this Act shall not have effect to confer any right on the tenant of a house under a tenancy to which Part 2 of the Landlord and Tenant Act 1954 (c. 56) (business tenancies) applies unless, at the relevant time, the tenant has been occupying the house, or any part of it, as his only or main residence (whether or not he has been using it for other purposes)—
    - (a) for the last two years; or
    - (b) for periods amounting to two years in the last ten years.”
- (3) In—
  - (a) section 9(3)(b) of the 1967 Act (no new notice for three years after withdrawal), and
  - (b) section 23(2)(b) of the 1967 Act (agreements excluding or restricting for period not exceeding three years right to give further notice),
 for “three years” substitute “twelve months”.

**140 Exclusion of certain business tenancies**

After subsection (1ZB) of section 1 of the 1967 Act (inserted by section 138(2)) insert—

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

- (a) it is granted for a term of years certain exceeding thirty-five years, whether or not it is (or may become) terminable before the end of that term by notice given by or to the tenant or by re-entry, forfeiture or otherwise,
- (b) it is for a term fixed by law under a grant with a covenant or obligation for perpetual renewal, unless it is a tenancy by sub-demise from one which is not a tenancy which falls within any of the paragraphs in this subsection,
- (c) it is a tenancy taking effect under section 149(6) of the Law of Property Act 1925 (c. 20) (leases terminable after a death or marriage), or
- (d) it is a tenancy which—
  - (i) is or has been granted for a term of years certain not exceeding thirty-five years, but with a covenant or obligation for renewal without payment of a premium (but not for perpetual renewal), and
  - (ii) is or has been once or more renewed so as to bring to more than thirty-five years the total of the terms granted (including any interval between the end of a tenancy and the grant of a renewal).

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

**141 Tenancies not at low rent**

(1) Section 1AA of the 1967 Act (additional right to enfranchisement where tenancy of house not at low rent) is amended as follows.

(2) Omit—

- (a) in subsection (1)(b), “falls within subsection (2) below and”, and
- (b) subsection (2) (tenancies for more than 35 years etc.).

(3) In subsection (3) (exceptions)—

- (a) in paragraph (b), for “the coming into force of section 106 of the Housing Act 1996 (c. 52)” substitute “1st April 1997 (the date on which section 106 of the Housing Act 1996 came into force)”, and
- (b) for paragraph (c) substitute—
  - “(c) the tenancy either—
    - (i) was granted on or before that date, or
    - (ii) was granted after that date, but on or before the coming into force of section 141 of the Commonhold

and Leasehold Reform Act 2002, for a term of years certain not exceeding thirty-five years.”

## 142 Personal representatives

(1) After section 6 of the 1967 Act insert—

### “6A Rights of personal representatives

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

- (a) the right to acquire the freehold, or
- (b) the right to an extended lease,

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

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

(2) In paragraph 6(2) of Schedule 3 (particulars to be contained in notice), after “6” (in both places) insert “, 6A”.

## 143 Abolition of limits on rights after lease extension

(1) In section 16 of the 1967 Act (limits on rights after extension of lease), omit—

- (a) subsection (1)(a) (no right for tenant under extended tenancy to acquire freehold after end of original lease), and
- (b) in subsection (4) (no right to freehold or extended lease in case of tenancy created by sub-demise under extended tenancy), the words “the freehold or”.

(2) For subsection (1B) of that section (extended tenancy not an assured tenancy or assured agricultural occupancy or a tenancy to which Schedule 10 to the Local Government and Housing Act 1989 (c. 42) applies) substitute—

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

(3) Paragraph (a) of subsection (1) and subsection (2) apply whether the tenancy in question is extended before or after the coming into force of that paragraph or subsection; and paragraph (b) of subsection (1) applies whether the lease by sub-demise in question is created before or after the coming into force of that paragraph.

(4) In section 9 of the 1967 Act (purchase price), after subsection (1A) insert—

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

- (a) if the relevant time is on or before the original term date, the assumptions set out in that subsection apply as if the tenancy is to terminate on the original term date; and
- (b) if the relevant time is after the original term date, the assumptions set out in paragraphs (a), (c) and (e) of that subsection apply as if the tenancy had terminated on the original term date and the assumption set out in paragraph (b) of that subsection applies as if the words “at the end of the tenancy” were omitted.”

#### **144 Exclusion of shared ownership leases**

- (1) Schedule 4A to the 1967 Act (exclusion of certain shared ownership leases) is amended as follows.
- (2) In paragraph 2 (exclusion of certain leases granted by certain public authorities when interest of landlord belongs to authority)—
  - (a) in sub-paragraph (1), after “such a body” insert “, to a registered social landlord”,
  - (b) in sub-paragraph (3)(b), at the end insert “or to a registered social landlord”, and
  - (c) at the end insert—
    - “(5) In this paragraph “registered social landlord” has the same meaning as in Part 1 of the Housing Act 1996 (c. 52).”
- (3) In paragraph 3(2)(d) (conditions to be satisfied for exclusion of lease granted by a housing association), omit “assign”.

#### *Purchase price*

#### **145 Tenant’s share of marriage value**

- (1) Section 9 of the 1967 Act (purchase price etc.) is amended as follows.
- (2) In subsection (1C) (purchase price payable where the right to acquire freehold arises by virtue of section 1A, 1AA or 1B), omit paragraph (a) (tenant’s share of marriage value not to exceed one-half).
- (3) After that subsection insert—
  - “(1D) Where, in determining the price payable for a house and premises in accordance with this section, there falls to be taken into account any marriage value arising by virtue of the coalescence of the freehold and leasehold interests, the share of the marriage value to which the tenant is to be regarded as being entitled shall be one-half of it.”

#### **146 Disregard of marriage value in case of very long leases**

In section 9 of the 1967 Act (purchase price etc.), after subsection (1D) (inserted by section 145) insert—

- “(1E) But where at the relevant time the unexpired term of the tenant’s tenancy exceeds eighty years, the marriage value shall be taken to be nil.”

**147 Purchase price for enfranchisement during lease extension**

- (1) In section 9 of the 1967 Act (purchase price on enfranchisement), in subsection (1C) (cases where price is to be determined in accordance with subsection (1A)), after “1B above” insert “, or where the tenancy of the house and premises has been extended under section 14 below and the notice under section 8(1) above was given (whether by the tenant or a sub-tenant) after the original term date of the tenancy,”.
- (2) In section 9A(1) of the 1967 Act (compensation payable in certain cases), after “1B above” insert “or where the tenancy of the house and premises has been extended under section 14 below and the notice under section 8(1) above was given (whether by the tenant or a sub-tenant) after the original term date of the tenancy”.

*Absent landlords***148 Applications to be to county court**

- (1) Section 27 of the 1967 Act (enfranchisement where landlord cannot be found) is amended as follows.
- (2) In subsection (1)—
  - (a) for “the High Court” (in both places), and
  - (b) for “the Court”,
 substitute “the court”.
- (3) In subsection (2)—
  - (a) for “the High Court” (in each place), and
  - (b) for “the Court” (in both places),
 substitute “the court”.
- (4) In subsection (3)—
  - (a) for “the Supreme Court”, and
  - (b) for “High Court” (in both places),
 substitute “court”.
- (5) In subsection (4), for “High Court” substitute “court”.
- (6) In subsection (6), for “the Supreme Court” substitute “court”.
- (7) In subsection (7)—
  - (a) for “the High Court” (in both places), and
  - (b) for “the Court”,
 substitute “the court”.

**149 Valuation by leasehold valuation tribunal**

- (1) In section 27 of the 1967 Act (enfranchisement where landlord cannot be found), for subsection (5) substitute—
  - “(5) The appropriate sum which, in accordance with subsection (3) above, is to be paid into court is the aggregate of—

- (a) such amount as may be determined by (or on appeal from) a leasehold valuation tribunal to be the price payable in accordance with section 9 above; and
  - (b) the amount or estimated amount (as so determined) of any pecuniary rent payable for the house and premises up to the date of the conveyance which remains unpaid.”
- (2) In section 21(1) of the 1967 Act (jurisdiction of leasehold valuation tribunals), after paragraph (c) insert—
  - “(cza) the amount of the appropriate sum to be paid into court under section 27(5);”.