



# Landlord and Tenant Act 1954

## 1954 CHAPTER 56

### PART II

#### SECURITY OF TENURE FOR BUSINESS, PROFESSIONAL AND OTHER TENANTS

##### *Tenancies to which Part II applies*

#### **23 Tenancies to which Part II applies.**

- (1) Subject to the provisions of this Act, this Part of this Act applies to any tenancy where the property comprised in the tenancy is or includes premises which are occupied by the tenant and are so occupied for the purposes of a business carried on by him or for those and other purposes.
- (2) In this Part of this Act the expression " business " includes a trade, profession or employment and includes any activity carried on by a body of persons, whether corporate or unincorporate.
- (3) In the following provisions of this Part of this Act the expression " the holding", in relation to a tenancy to which this Part of this Act applies, means the property comprised in the tenancy, there being excluded any part thereof which is occupied neither by the- tenant nor by a person employed by the tenant and so employed for the purposes of a business by reason of which the tenancy is one to which this Part of this Act applies.
- (4) Where the tenant is carrying on a business, in all or any part of the property comprised in a tenancy, in breach of a prohibition (however expressed) of use for business purposes which subsists under the terms of the tenancy and extends to the whole of that property, this Part of this Act shall not apply to the tenancy unless the immediate landlord or his predecessor in title has consented to the breach or the immediate landlord has acquiesced therein.

In this subsection the reference to a prohibition of use for business purposes does not include a prohibition of use for the purposes of a specified business, or of use for purposes of any but a specified business, but save as aforesaid includes a prohibition

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of use for the purposes of some one or more only of the classes of business specified in the definition of that expression in subsection (2) of this section.

*Continuation and renewal of tenancies*

**24 Continuation of tenancies to which Part II applies and grant of new tenancies.**

- (1) A tenancy to which this Part of this Act applies shall not come to an end unless terminated in accordance with the provisions of this Part of this Act; and, subject to the provisions of section twenty-nine of this Act, the tenant under such a tenancy may apply to the court for a new tenancy—
  - (a) if the landlord has given notice under the next following section to terminate the tenancy, or
  - (b) if the tenant has made a request for a new tenancy in accordance with section twenty-six of this Act.
- (2) The last foregoing subsection shall not prevent the coming to an end of a tenancy by notice to quit given by the tenant, by surrender or forfeiture, or by the forfeiture of a superior tenancy.
- (3) Notwithstanding anything in subsection (1) of this section,—
  - (a) where a tenancy to which this Part of this Act applies ceases to be such a tenancy, it shall not come to an end by reason only of the cesser, but if it was granted for a term of years certain and has been continued by subsection (1) of this section then (without prejudice to the termination thereof in accordance with any terms of the tenancy) it may be terminated by not less than three nor more than six months' notice in writing given by the landlord to the tenant;
  - (b) where, at a time when a tenancy is not one to which this Part of this Act applies, the landlord gives notice to quit, the operation of the notice shall not be affected by reason that the tenancy becomes one to which this Part of this Act applies after the giving of the notice.

**25 Termination of tenancy by the landlord.**

- (1) The landlord may terminate a tenancy to which this Part of this Act applies by a notice given to the tenant in the prescribed form specifying the date at which the tenancy is to come to an end (hereinafter referred to as "the date of termination"):

Provided that this subsection has effect subject to the provisions of Part IV of this Act as to the interim continuation of tenancies pending the disposal of applications to the court.
- (2) Subject to the provisions of the next following subsection, a notice under this section shall not have effect unless it is given not more than twelve nor less than six months before the date of termination specified therein.
- (3) In the case of a tenancy which apart from this Act could have been brought to an end by notice to quit given by the landlord—
  - (a) the date of termination specified in a notice under this section shall not be earlier than the earliest date on which apart from this Part of this Act the tenancy could have been brought to an end by notice to quit given by the landlord on the date of the giving of the notice under this section; and

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- (b) where apart from this Part of this Act more than six months' notice to quit would have been required to bring the tenancy to an end, the last foregoing subsection shall have effect with the substitution for twelve months of a period six months longer than the length of notice to quit which would have been required as aforesaid.
- (4) In the case of any other tenancy, a notice under this section shall not specify a date of termination earlier than the date on which apart from this Part of this Act the tenancy would have come to an end by effluxion of time.
- (5) A notice under this section shall not have effect unless it requires the tenant, within two months after the giving of the notice, to notify the landlord in writing whether or not, at the date of termination, the tenant will be willing to give up possession of the property comprised in the tenancy.
- (6) A notice under this section shall not have effect unless it states whether the landlord would oppose an application to the court under this Part of this Act for the grant of a new tenancy and, if so, also states on which of the grounds mentioned in section thirty of this Act he would do so.

## **26 Tenant's request for a new tenancy.**

- (1) A tenant's request for a new tenancy may be made where the tenancy under which he holds for the time being (hereinafter referred to as " the current tenancy ") is a tenancy granted for a term of years certain exceeding one year, whether or not continued by section twenty-four of this Act, or granted for a term of years certain and thereafter from year to year.
- (2) A tenant's request for a new tenancy shall be for a tenancy beginning with such date, not more than twelve nor less than six months after the making of the request, as may be specified therein:  

Provided that the said date shall not be earlier than the date on which apart from this Act the current tenancy would come to an end by effluxion of time or could be brought to an end by notice to quit given by the tenant.
- (3) A tenant's request for a new tenancy shall not have effect unless it is made by notice in the prescribed form given to the landlord and sets out the tenant's proposals as to the property to be comprised in the new tenancy (being either the whole or part of the property comprised in the current tenancy), as to the rent to be payable under the new tenancy and as to the other terms of the new tenancy.
- (4) A tenant's request for a new tenancy shall not be made if the landlord has already given notice under the last foregoing section to terminate the current tenancy, or if the tenant has already given notice to quit or notice under the next following section ; and not such notice shall be given by the landlord or the tenant after the making by the tenant of a request for a new tenancy.
- (5) Where the tenant makes a request for a new tenancy in accordance with the foregoing provisions of this section, the current tenancy shall, subject to the provisions of subsection (2) of section thirty-six of this Act and the provisions of Part IV of this Act as to the interim continuation of tenancies, terminate immediately before the date specified in the request for the beginning of the new tenancy.

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- (6) Within two months of the making of a tenant's request for a new tenancy the landlord may give notice to the tenant that he will oppose an application to the court for the grant of a new tenancy, and any such notice shall state on which of the grounds mentioned in section thirty of this Act the landlord will oppose the application.

**27 Termination by tenant of tenancy for fixed term.**

- (1) Where the tenant under a tenancy to which this Part of this Act applies, being a tenancy granted for a term of years certain, gives to the immediate landlord, not later than three months before the date on which apart from this Act the tenancy would come to an end by effluxion of time, a notice in writing that the tenant does not desire the tenancy to be continued, section twenty-four of this Act shall not have effect in relation to the tenancy.
- (2) A tenancy granted for a term of years certain which is continuing by virtue of section twenty-four of this Act may -be brought to an end on any quarter day by not less than three months' notice in writing given by the tenant to the immediate landlord, whether the notice is given before or after the date on which apart from this Act the tenancy would have come to an end.

**28 Renewal of tenancies by agreement.**

Where the landlord and tenant agree for the grant to the tenant of a future tenancy of the holding, or of the holding with other land, on terms and from a date specified in the agreement, the current tenancy shall continue until that date but no longer, and shall not be a tenancy to which this Part of this Act applies.

*Application to court for new tenancies*

**29 Order by court for grant of a new tenancy.**

- (1) Subject to the provisions of this Act, on an application under subsection (1) of section twenty-four of this Act for a new tenancy the court shall make an order for the grant of a tenancy comprising such property, at such rent and on such other terms, as are hereinafter provided.
- (2) Where such an application is made in consequence of a notice given by the landlord under section twenty-five of this Act, it shall not be entertained unless the tenant has duly notified the landlord that he will not be willing at the date of termination to give up possession of the property comprised in the tenancy.
- (3) No application under subsection (1) of section twenty-four of this Act shall be entertained unless it is made not less than two nor more than four months after the giving of the landlord's notice under section twenty-five of this Act or, as the case may be, after the making of the tenant's request for a new tenancy.

**30 Opposition by landlord to application for new tenancy.**

- (1) The grounds on which a landlord may oppose an application under subsection (1) of section twenty-four of this Act are such of the following grounds as may be stated in the landlord's notice under section twenty-five of this Act or as the case may be, under subsection (6) of section twenty-six thereof, that is to say:—

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- (a) where under the current tenancy the tenant has any obligations as respects the repair and maintenance of the holding, that the tenant ought not to be granted a new tenancy in view of the state of repair of the holding, being a state resulting from the tenant's failure to comply with the said obligations;
  - (b) that the tenant ought not to be granted a new tenancy in view of his persistent delay in paying rent which has become due;
  - (c) that the tenant ought not to be granted a new tenancy in view of other substantial breaches by him of his obligations under the current tenancy, or for any other reason connected with the tenant's use or management of the holding;
  - (d) that the landlord has offered and is willing to provide or secure the provision of alternative accommodation for the tenant, that the terms on which the alternative accommodation is available are reasonable having regard to the terms of the current tenancy and to all other relevant circumstances, and that the accommodation and the time at which it will be available are suitable for the tenant's requirements (including the requirement to preserve goodwill) having regard to the nature and class of his business and to the situation and extent of and facilities afforded by the holding;
  - (e) where the current tenancy was created by the sub-letting of part only of the property comprised in a superior tenancy and the landlord is the owner of an interest in reversion expectant on the termination of that superior tenancy, that the aggregate of the rents reasonably obtainable on separate lettings of the holding and the remainder of that property would be substantially less than the rent reasonably obtainable on a letting of that property as a whole, that on the termination of the current tenancy the landlord requires possession of the holding for the purpose of letting or otherwise disposing of the said property as a whole, and that in view thereof the tenant ought not to be granted a new tenancy;
  - (f) that on the termination of the current tenancy the landlord intends to demolish or reconstruct the premises comprised in the holding or a substantial part of those premises or to carry out substantial work of construction on the holding or part thereof and that he could not reasonably do so without obtaining possession of the holding ;
  - (g) subject as hereinafter provided, that on the termination of the current tenancy the landlord intends to occupy the holding for the purposes, or partly for the purposes, of a business to be carried on by him therein, or as his residence.
- (2) The landlord shall not be entitled to oppose an application on the ground specified in paragraph (g) of the last foregoing subsection if the interest of the landlord, or an interest which has merged in that interest and but for the merger would be the interest of the landlord, was purchased or created after the beginning of the period of five years which ends with the termination of the current tenancy, and at all times since the purchase or creation thereof the holding has been comprised in a tenancy or successive tenancies of the description specified in subsection (1) of section twenty-three of this Act.

### **31 Dismissal of application for new tenancy where landlord successfully opposes.**

- (1) If the landlord opposes an application under subsection (1) of section twenty-four of this Act on grounds on which he is entitled to oppose it in accordance with the last foregoing section and establishes any of those grounds to the satisfaction of the court, the court shall not make an order for the grant of a new tenancy.

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- (2) Where in a case not falling within the last foregoing subsection the landlord opposes an application under the said subsection (1) on one or more of the grounds specified in paragraphs (d), (e) and (f) of subsection (1) of the last foregoing section but establishes none of those grounds to the satisfaction of the court, then if the court would have been satisfied of any of those grounds if the date of termination specified in the landlord's notice or, as the case may be, the date specified in the tenant's request for a new tenancy as the date from which the new tenancy is to begin, had been such later date as the court may determine, being a date not more than one year later than the date so specified.—
- (a) the court shall make a declaration to that effect, stating of which of the said grounds the court would have been satisfied as aforesaid and specifying the date determined by the court as aforesaid, but shall not make an order for the grant of a new tenancy;
  - (b) if, within fourteen days after the making of the declaration, the tenant so requires the court shall make an order substituting the said date for the date specified in the said landlord's notice or tenant's request, and thereupon that notice or request shall have effect accordingly.

### **32 Property to be comprised in new tenancy.**

- (1) Subject to the next following subsection, an order under section twenty-nine of this Act for the grant of a new tenancy shall be an order for the grant of a new tenancy of the holding; and in the absence of agreement between the landlord and the tenant as to the property which constitutes the holding the court shall in the order designate that property by reference to the circumstances existing at the date of the order.
- (2) The foregoing provisions of this section shall not apply in a case where the property comprised in the current tenancy includes other property besides the holding and the landlord requires any new tenancy ordered to be granted under section twenty-nine of this Act to be a tenancy of the whole of the property comprised in the current tenancy; but in any such case—
- (a) any order under the said section twenty-nine for the grant of a new tenancy shall be an order for the grant of a new tenancy of the whole of the property comprised in the current tenancy, and
  - (b) references in the following provisions of this Part of this Act to the holding shall be construed as references to the whole of that property.
- (3) Where the current tenancy includes rights enjoyed by the tenant in connection with the holding, those rights shall be included in a tenancy ordered to be granted under section twenty-nine of this Act.

### **33 Duration of new tenancy.**

Where on an application under this Part of this Act the court makes an order for the grant of a new tenancy, the new tenancy shall be such tenancy as may be agreed between the landlord and the tenant, or, in default of such an agreement, shall be such a tenancy as may be determined by the court to be reasonable in all the circumstances, being, if it is a tenancy for a term of years certain, a tenancy for a term not exceeding fourteen years, and shall begin on the coming to an end of the current tenancy.

### **34 Rent under new tenancy.**

The rent payable under a tenancy granted by order of the court under this Part of this Act shall be such as may be agreed between the landlord and the tenant or as, in default of such agreement, may be determined by the court to be that at which, having regard to the terms of the tenancy (other than those relating to rent), the holding might reasonably be expected to be let in the open market by a willing lessor, there being disregarded—

- (a) any effect on rent of the fact that the tenant has or his predecessors in title have been in occupation of the holding,
- (b) any goodwill attached to the holding by reason of the carrying on thereat of the business of the tenant (whether by him or by a predecessor of his in that business),
- (c) any effect on rent of any improvement carried out by the tenant or a predecessor in title of his otherwise than in pursuance of an obligation to his immediate landlord,
- (d) in the case of a holding comprising licensed premises, any addition to its value attributable to the licence, if it appears to the court that having regard to the terms of the current tenancy and any other relevant circumstances the benefit of the licence belongs to the tenant.

### **35 Other terms of new tenancy.**

The terms of a tenancy granted by order of the court under this Part of this Act (other than terms as to the duration thereof and as to the rent payable thereunder) shall be such as may be agreed between the landlord and the tenant or as, in default of such agreement, may be determined by the court; and in determining those terms the court shall have regard to the terms of the current tenancy and to all relevant circumstances.

### **36 Carrying out of order for new tenancy.**

- (1) Where under this Part of this Act the court makes an order for the grant of a new tenancy, then, unless the order is revoked under the next following subsection or the landlord and the tenant agree not to act upon the order, the landlord shall be bound to execute or make in favour of the tenant, and the tenant shall be bound to accept, a lease or agreement for a tenancy of the holding embodying the terms agreed between the landlord and the tenant or determined by the court in accordance with the foregoing provisions of this Part of this Act; and where the landlord executes or makes such a lease or agreement the tenant shall be bound, if so required by the landlord, to execute a counterpart or duplicate thereof.
- (2) If the tenant, within fourteen days after the making of an order under this Part of this Act for the grant of a new tenancy, applies to the court for the revocation of the order the court shall revoke the order; and where the order is so revoked, then, if it is so agreed between the landlord and the tenant or determined by the court, the current tenancy shall continue, beyond the date at which it would have come to an end apart from this subsection, for such period as may be so agreed or determined to be necessary to afford to the landlord a reasonable opportunity for reletting or otherwise disposing of the premises which would have been comprised in the new tenancy; and while the current tenancy continues by virtue of this subsection it shall not be a tenancy to which this Part of this Act applies.

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- (3) Where an order is revoked under the last foregoing subsection any provision thereof as to payment of costs shall not cease to have effect by reason only of the revocation ; but the court may, if it thinks fit, revoke or vary any such provision or, where no costs have been awarded in the proceedings for the revoked order, award such costs.
- (4) A lease executed or agreement made under this section, in a case where the interest of the lessor is subject to a mortgage, shall be deemed to be one authorised by section ninety-nine of the Law of Property Act, 1925 (which confers certain powers of leasing on mortgagors in possession), and subsection (13) of that section (which allows those powers to be restricted or excluded by agreement) shall not have effect in relation to such a lease or agreement.

### **37 Compensation where order for new tenancy precluded on certain grounds.**

- (1) Where on the making of an application under section twenty-four of this Act the court is precluded (whether by subsection (1) or subsection (2) of section thirty-one of this Act) from making an order for the grant of a new tenancy by reason of any of the grounds specified in paragraphs (e), (f) and (g) of subsection (1) of section thirty of this Act and not of any grounds specified in any other paragraph of that subsection, then, subject to the provisions of this Act, the tenant shall be entitled on quitting the holding to recover from the landlord by way of compensation an amount determined in accordance with the following provisions of this section.
- (2) The said amount shall be as follows, that is to say,—
  - (a) where the conditions specified in the next following subsection are satisfied it shall be twice the rateable value of the holding,
  - (b) in any other case it shall be the rateable value of the holding.
- (3) The said conditions are—
  - (a) that, during the whole of the fourteen years immediately preceding the termination of the current tenancy, premises being or comprised in the holding have been occupied for the purposes of a business carried on by the occupier or for those and other purposes;
  - (b) that, if during those fourteen years there was a change in the occupier of the premises, the person who was the occupier immediately after the change was the successor to the business carried on by the person who was the occupier immediately before the change.
- (4) Where the court is precluded from making an order for the grant of a new tenancy under this Part of this Act in the circumstances mentioned in subsection (1) of this section, the court shall on the application of the tenant certify that fact.
- (5) For the purposes of subsection (2) of this section the rateable value of the holding shall be determined as follows:—
  - (a) where in the valuation list in force at the date on which the landlord's notice under section twenty-five or, as the case may be, subsection (6) of section twenty-six of this Act is given a value is then shown as the annual value (as hereinafter defined) of the holding, the rateable value of the holding shall be taken to be that value ;
  - (b) where no such value is so shown with respect to the holding but such a value or such values is or are so shown with respect to premises comprised in or comprising the holding or part of it, the rateable value of the holding shall be



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taken to be such value as is found by a proper apportionment or aggregation of the value or values so shown ;

- (c) where the rateable value of the holding cannot be ascertained in accordance with the foregoing paragraphs of this subsection, it shall be taken to be the value which, apart from any exemption from assessment to rates, would on a proper assessment be the value to be entered in the said valuation list as the annual value of the holding ;

and any dispute arising, whether in proceedings before the court or otherwise, as to the determination for those purposes of the rateable value of the holding shall be referred to the Commissioners of Inland Revenue for decision by a valuation officer.

An appeal shall lie to the Lands Tribunal from any decision of a valuation officer under this subsection, but subject thereto any such decision shall be final.

- (6) The Commissioners of Inland Revenue may by statutory instrument make rules prescribing the procedure in connection with references under this section.

- (7) In this section—

the reference to the termination of the current tenancy is a reference to the date of termination specified in the landlord's notice under section twenty-five of this Act or, as the case may be, the date specified in the tenant's request for a new tenancy as the date from which the new tenancy is to begin ;

the expression " annual value " means rateable value except that where the rateable value differs from the net annual value the said expression means net annual value;

the expression " valuation officer " means any officer of the Commissioners of Inland Revenue for the time being authorised by a certificate of the Commissioners to act in relation to a valuation list.

### **38 Restriction on agreements excluding provisions of Part II.**

- (1) Any agreement relating to a tenancy to which this Part of this Act applies (whether contained in the instrument creating the tenancy or not) shall be void in so far as it purports to preclude the tenant from making an application or request under this Part of this Act or provides for the termination or the surrender of the tenancy in the event of his making such an application or request or for the imposition of any penalty or disability on the tenant in that event.

- (2) Where—

- (a) during the whole of the five years immediately preceding the date on which the tenant under a tenancy to which this Part of this Act applies is to quit the holding, premises being or comprised in the holding have been occupied for the purposes of a business carried on by the occupier or for those and other purposes, and

- (b) if during those five years there was a change in the occupier of the premises, the person who was the occupier immediately after the change was the successor to the business carried on by the person who was the occupier immediately before the change,

any agreement (whether contained in the instrument creating the tenancy or not and whether made before or after the termination of that tenancy) which purports to exclude or reduce compensation under the last foregoing section shall to that extent be

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void, so however that this subsection shall not affect any agreement as to the amount of any such compensation which is made after the right to compensation has accrued.

- (3) In a case not falling within the last foregoing subsection the right to compensation conferred by the last foregoing section may be excluded or modified by agreement.

*General and supplementary provisions*

**39 Saving for compulsory acquisitions.**

- (1) The amount of any compensation payable under section one hundred and twenty-one of the Lands Clauses Consolidation Act, 1845 (which relates to the payment of compensation and the obtaining of possession by an acquiring authority in the case of tenancies from year to year or less interests) shall, in the case of a tenancy to which this Part of this Act applies, be assessed without regard to the right of tenants to apply under this Part of this Act for the grant of new tenancies.
- (2) If the amount of the compensation which would have been payable under section thirty-seven of this Act if the tenancy had come to an end in circumstances giving rise to compensation under that section and the date at which the acquiring authority obtained possession had been the termination of the current tenancy exceeds the amount of the compensation assessed in accordance with the last foregoing subsection, that compensation shall be increased by the amount of the excess.
- (3) Nothing in section twenty-four of this Act shall affect the operation of the said section one hundred and twenty-one.

**40 Duty of tenants and landlords of business premises to give information to each other.**

- (1) Where any person having an interest in any business premises, being an interest in reversion expectant (whether immediately or not) on a tenancy of those premises, serves on the tenant a notice in the prescribed form requiring him to do so, it shall be the duty of the tenant to notify that person in writing within one month of the service of the notice—
- (a) whether he occupies the premises of any part thereof wholly or partly for the purposes of a business carried on by him, and
  - (b) whether his tenancy has effect subject to any sub-tenancy on which his tenancy is immediately expectant and, if so, what premises are comprised in the sub-tenancy, for what term it has effect (or, if it is terminable by notice, by what notice it can be terminated), what is the rent payable thereunder, who is the sub-tenant, and (to the best of his knowledge and belief) whether the sub-tenant is in occupation of the premises or of part of the premises comprised in the sub-tenancy and, if not, what is the sub-tenant's address.
- (2) Where the tenant of any business premises, being a tenant under such tenancy as is mentioned in subsection (1) of section twenty-six of this Act, serves on any of the persons mentioned in the next following subsection a notice in the prescribed form requiring him to do so, it shall be the duty of that person to notify the tenant in writing within one month after the service of the notice—
- (a) Whether he is the owner of the fee simple in respect of those premises or any part thereof or the mortgagee in possession of such an owner and, if not,

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- (b) (to the best of his knowledge and belief) the name and address of the person who is his or, as the case may be, his mortgagor's immediate landlord in respect of those premises or of the part in respect of which he or his mortgagor is not the owner in fee simple, for what term his or his mortgagor's tenancy thereof has effect and what is the earliest date (if any) at which that tenancy is terminable by notice to quit given by the landlord.
- (3) The persons referred to in the last foregoing subsection are, in relation to the tenant of any business premises,—
- (a) any person having an interest in the premises, being an interest in reversion expectant (whether immediately or not) on the tenant's, and
- (b) any person being a mortgagee in possession in respect of such an interest in reversion as is mentioned in paragraph (a) of this subsection ;
- and the information which any such person as is mentioned in paragraph (a) of this subsection is required to give under the last foregoing subsection shall include information whether there is a mortgagee in possession of his interest in the premises and, if so, what is the name and address of the mortgagee.
- (4) The foregoing provisions of this section shall not apply to a notice served by or on the tenant more than two years before the date on which apart from this Act his tenancy would come to an end by effluxion of time or could be brought to an end by notice to quit given by the landlord.
- (5) In this section—
- the expression " business premises" means premises used wholly or partly for the purposes of a business;
- the expression mortgagee in possession" includes a receiver appointed by the mortgagee or by the court who is in receipt of the rents and profits, and the expression " his mortgagor " shall be construed accordingly ;
- the expression " sub-tenant" includes a person retaining possession of any premises by virtue of the Rent and Mortgage Interest Restrictions Acts, 1920 to 1939 after the coming to an end of a sub-tenancy, and the expression " sub4tenancy " includes a right so to retain possession.

## **41      Trusts.**

- (1) Where a tenancy is held on trust, occupation by all or any of the beneficiaries under the trust, and the carrying on of a business by all or any of the beneficiaries, shall be treated for the purposes of section twenty-three of this Act as equivalent to occupation or the carrying on of a business by the tenant; and in relation to a tenancy to which this Part of this Act applies by virtue of the foregoing provisions of this subsection—
- (a) references (however expressed) in this Part of this Act and in the Ninth Schedule to this Act to the business of, or to carrying on of business, use, occupation or enjoyment by, the tenant shall be construed as including references to the business of, or to carrying on of business, use, occupation or enjoyment by, the beneficiaries or beneficiary;
- (b) the reference in paragraph (d) of section thirty-four of this Act to the tenant shall be construed as including the beneficiaries or beneficiary ; and
- (c) a change in the persons of the trustees shall not be treated as a change in the person of the tenant.

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- (2) Where the landlord's interest is held on trust the references in paragraph (g) of subsection (1) of section thirty of this Act to the landlord shall be construed as including references to the beneficiaries under the trust or any of them; but, except in the case of a trust arising under a will or on the intestacy of any person, the reference in subsection (2) of that section to the creation of the interest therein mentioned shall be construed as including the creation of the trust.

#### **42 Group of companies.**

- (1) For the purposes of this section two bodies corporate shall be taken to be members of a group if and only if one is a subsidiary of the other or both are subsidiaries of a third body corporate.

In this subsection " subsidiary " has the same meaning as is assigned to it for the purposes of the Companies Act, 1948, by section one hundred and fifty-four of that Act.

- (2) Where a tenancy is held by a member of a group, occupation by another member of the group, and the carrying on of a business by another member of the group, shall be treated for the purposes of section twenty-three of this Act as equivalent to occupation or the carrying on of a business by the member of the group holding the tenancy; and in relation to a tenancy to which this Part of this Act applies by virtue of the foregoing provisions of this subsection—
- (a) references (however expressed) in this Part of this Act and in the Ninth Schedule to this Act to the business of or to use occupation or enjoyment by the tenant shall be construed as including references to the business of or to use occupation or enjoyment by the said other member;
  - (b) the reference in paragraph (d) of section thirty-four of this Act to the tenant shall be construed as including the said other member; and
  - (c) an assignment of the tenancy from one member of the group to another shall not be treated as a change in the person of the tenant.
- (3) Where the landlord's interest is held by a member of a group the reference in paragraph (g) of subsection (1) of section thirty of this Act to intended occupation by the landlord for the purposes of a business to be carried on by him shall be construed as including intended occupation by any member of the group for the purposes of a business to be carried on by that member.

#### **43 Tenancies excluded from Part II.**

- (1) This Part of this Act does not apply—
- (a) to a tenancy of an agricultural holding;
  - (b) to a tenancy created by a mining lease ;
  - (c) to a tenancy where the property comprised therein is let under a letting to which the restrictions on the obtaining of possession by the landlord imposed by section three of the Rent and Mortgage Restrictions (Amendment) Act, 1933, apply in relation to the tenant, or would apply but for subsection (7) of section twelve of the Increase of Rent and Mortgage Interest (Restrictions) Act, 1920; or
  - (d) to a tenancy of premises licensed for the sale of intoxicating liquor for consumption on the premises, other than premises where—

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

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- (i) the excise licence for the time being in force is a licence the duty in respect of which is the reduced duty payable under paragraph 3, 5, 6, 10, 11 or 12 of the Fourth Schedule to the Customs and Excise Act, 1952, or a licence granted on the provisional payment of reduced duty with a view to subsequent adjustment to the duty payable under the said paragraph 3 or the said paragraph 6 ; or
  - (ii) the Commissioners of Customs and Excise certify that no application under any of the said paragraphs has been made in respect of the period for which the excise licence for the time being in force was granted, but that if such an application had been made such a licence as is mentioned in sub-paragraph (i) of this paragraph could properly have been granted.
- (2) This Part of this Act does not apply to a tenancy granted by reason that the tenant was the holder of an office, appointment or employment from the grantor thereof and continuing only so long as the tenant holds the office, appointment or employment, or terminable by the grantor on the tenant's ceasing to hold it, or coming to an end at a time fixed by reference to the time at which the tenant ceases to hold it:

Provided that this subsection shall not have effect in relation to a tenancy granted after the commencement of this Act unless the tenancy was granted by an instrument in writing which expressed the purpose for which the tenancy was granted.

- (3) This Part of this Act does not apply to a tenancy granted for a term certain not exceeding three months unless—
- (a) the tenancy contains provision for renewing the term or for extending it beyond three months from its beginning; or
  - (b) the tenant has been in occupation for a period which, together with any period during which any predecessor in the carrying on of the business carried on by the tenant was in occupation, exceeds six months.

#### **44 Meaning of "the landlord " in Part II, and provisions as to mesne landlords, etc..**

- (1) Subject to the next following subsection, in this Part of this Act the expression " the landlord", in relation to a tenancy (in this section referred to as "the relevant tenancy"), means the person (whether or not he is the immediate landlord) who is the owner of that interest in the property comprised in the relevant tenancy which for the time being fulfils the following conditions, that is to say—
- (a) that it is an interest in reversion expectant (whether immediately or not) on the termination of the relevant tenancy, and
  - (b) that it is either the fee simple or a tenancy which will not come to an end within fourteen months or less by effluxion of time or by virtue of a notice to quit already given by the landlord,
- and is not itself in reversion expectant (whether immediately or not) on an interest which fulfils those conditions.
- (2) References in this Part of this Act to a notice to quit given by the landlord are references to a notice to quit given by the immediate landlord.
- (3) The provisions of the Sixth Schedule to this Act shall have effect for the application of this Part of this Act to cases where the immediate landlord of the tenant is not the owner of the fee simple in respect of the holding.

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

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**45 Repeal of certain provisions of Landlord and Tenant Act, 1927.**

In so far as the Landlord and Tenant Act, 1927, provides for compensation for goodwill where a tenancy is not renewed and for a right to the renewal of tenancies in certain cases, it shall cease to have effect; and accordingly that Act is hereby repealed to the extent specified in the third column of Part I of the Seventh Schedule to this Act.

**46 Interpretation of Part II.**

In this Part of this Act:—

" business " has the meaning assigned to it by subsection (2) of section twenty-three of this Act;

" current tenancy " has the meaning assigned to it by subsection (1) of section twenty six of this Act;

" date of termination " has the meaning assigned to it by subsection (1) of section twenty-five of this Act;

subject to the provisions of section thirty-two of this Act, " the holding " has the meaning assigned to it by subsection (3) of section twenty-three of this Act;

" mining lease " has the same meaning as in the Landlord and Tenant Act, 1927.