
STATUTORY INSTRUMENTS

1997 No. 1179

The Property (Northern Ireland) Order 1997

PART II

GROUND RENTS AND CERTAIN OTHER PAYMENTS

Prohibition of transactions giving rise to, or to increases in, ground rents

Long leases of dwelling-houses

30.—(1) Without prejudice to Article 36(1)(c) and (2) or Article 37(3), and subject to paragraph (5), on and after the appointed day a lease of a dwelling-house for a term of more than 50 years (“a long lease”) is incapable of being created at law or in equity.

(2) In relation to any land, any agreement made on or after the appointed day to grant a long lease the creation of which is prohibited by this Article, and any instrument made on or after that day which purports to be such a lease, has effect (in either case) as an agreement with the prospective or purported lessee binding the prospective or purported lessor—

- (a) to acquire a fee simple in the land (if he does not already own such a fee) at no expense to the intended lessee (that is to say, the person designated in the agreement or instrument as the prospective or purported lessee); and
- (b) to convey the fee simple to the intended lessee at no expense to the intended lessee (but without prejudice to the intended lessee’s liability for his own costs) and without any consideration (save any fine specified in the agreement or instrument).

(3) Where the leasehold estate purported to be created by an instrument such as is mentioned in paragraph (2) purports to be subject to a mortgage, the mortgage binds the fee simple, when conveyed, as if it had been created in relation to the fee simple, and, in particular,—

- (a) where the instrument creating the mortgage purported to be an assignment of the leasehold estate, it has effect as if it were a conveyance of the fee simple;
- (b) where the instrument creating the mortgage purported to be a sub-lease, it has effect as if it were a lease for a term equivalent to the term of the sub-lease;

and the purported lessor’s duty to acquire and convey the fee simple is enforceable by the mortgagee, whether he is in possession or not, as though the mortgagee were a party to the agreement second-mentioned in paragraph (2) (and, accordingly, that paragraph applies as if references in it to the intended lessee, except the first reference in sub-paragraph (b), included the mortgagee).

(4) For the purposes of this Article a lease is for a term of more than 50 years if (although expressed to be for a term of or less than that period) it is, by virtue of any provision of the lease or of a collateral agreement, capable of being extended or renewed for any period or periods which, taken with the original term, in the aggregate exceed the period of 50 years (ignoring any part of the term falling before the date of the grant of the lease).

(5) This Article does not prohibit—

- (a) the grant of a long lease in pursuance of an obligation assumed before the appointed day;

- (b) the grant of a concurrent lease;
- (c) the grant of a long lease by way of mortgage;
- (d) the grant of an equity-sharing lease;
- (e) the grant of a long lease of a flat;
- (f) the grant of a long lease by the National Trust.

(6) In paragraphs (2) and (3) references to the prospective lessor or the purported lessor and to the intended lessee include, as the case requires, their respective successors in title or the persons who would have been their respective successors in title if the agreement or instrument had had the effect intended (and similarly in relation to a mortgagee); and in paragraph (5)(e) “flat” has the same meaning as in Article 7(7).