



# Law of Property Act 1969

## 1969 CHAPTER 59

### PART I

#### AMENDMENT OF PART II OF LANDLORD AND TENANT ACT 1954

##### *Provisions as to rent*

### **1 Improvements to be disregarded in fixing rent**

(1) In section 34 of the Act of 1954 (rent under new tenancy) the following paragraph shall be substituted for paragraph (c) (improvements to be disregarded):—

“(c) any effect on rent of an improvement to which this paragraph applies” and the following subsection shall be added (the present section, as amended by the foregoing provisions, becoming subsection (1)):—

“(2) Paragraph (c) of the foregoing subsection applies to any improvement carried out by a person who at the time it was carried out was the tenant, but only if it was carried out otherwise than in pursuance of an obligation to his immediate landlord, and either it was carried out during the current tenancy or the following conditions are satisfied, that is to say,—

- (a) that it was completed not more than twenty-one years before the application for the new tenancy was made; and
- (b) that the holding or any part of it affected by the improvement has at all times since the completion of the improvement been comprised in tenancies of the description specified in section 23(1) of this Act; and
- (c) that at the termination of each of those tenancies the tenant did not quit.”

(2) In section 41(1)(b) and section 42(2)(b) of the Act of 1954 the words " subsection (1) of " shall be inserted before the words " section 34 " .

## 2 Determination of variable rent

At the end of section 34 of the Act of 1954 (rent under new tenancy) there shall be added the following subsection:—

“(3) Where the rent is determined by the court the court may, if it thinks fit, further determine that the terms of the tenancy shall include such provision for varying the rent as may be specified in the determination.”

## 3 Rent while tenancy continues by virtue of s. 24 of Act of 1954

(1) After section 24 of the Act of 1954 there shall be inserted the following section:—

(1) The landlord of a tenancy to which this Part of this Act applies may.—

- (a) if he has given notice under section 25 of this Act to terminate the tenancy ; or
- (b) if the tenant has made a request for a new tenancy in accordance with section 26 of this Act;

apply to the court to determine a rent which it would be reasonable for the tenant to pay while the tenancy continues by virtue of section 24 of this Act, and the court may determine a rent accordingly.

(2) A rent determined in proceedings under this section shall be deemed to be the rent payable under the tenancy from the date on which the proceedings were commenced or the date specified in the landlord's notice or the tenant's request, whichever is the later.

(3) In determining a rent under this section the court shall have regard to the rent payable under the terms of the tenancy, but otherwise subsections (1) and (2) of section 34 of this Act shall apply to the determination as they would apply to the determination of a rent under that section if a new tenancy from year to year of the whole of the property comprised in the tenancy were granted to the tenant by order of the court.”

(2) In section 24(1)(a) of the Act of 1954 for the words " the next following section " there shall be substituted the words " section 25 of this Act " .

### *Termination of tenancy and right to new tenancy*

## 4 Restriction on termination of tenancy by agreement

(1) At the end of section 24(2) of the Act of 1954 (which includes notice to quit by the tenant and surrender among the means by which a tenancy to which Part II of that Act applies can be brought to an end) there shall be added the words " unless—

- (a) in the case of a notice to quit, the notice was given before the tenant had been in occupation in right of the tenancy for one month ; or
- (b) in the case of an instrument of surrender, the instrument was executed before, or was executed in pursuance of an agreement made before, the tenant had been in occupation in right of the tenancy for one month."

(2) Section 27 of the Act of 1954 (termination by tenant of tenancy for fixed term) shall be amended as follows:—

- (a) at the end of subsection (1) (notice by tenant that he does not desire tenancy to be continued) there shall be added the words " unless the notice is given before the tenant has been in occupation in right of the tenancy for one month "; and
- (b) in subsection (2) (termination on quarter day by tenant's notice) the words " before or " shall be omitted and at the end of the subsection there shall be added the words " or before that date, but not before the tenant has been in occupation in right of the tenancy for one month ".

## **5 Exclusion of provisions of Part II of Act of 1954 by authorised agreement**

In subsection (1) of section 38 of the Act of 1954 (restriction on agreements excluding provisions of Part II) after the words "shall be void" there shall be inserted the words " (except as provided by subsection (4) of this section) " and at the end of the section there shall be added the following subsection:—

- “(4) The court may—
- (a) on the joint application of the persons who will be the landlord and the tenant in relation to a tenancy to be granted for a term of years certain which will be a tenancy to which this Part of this Act applies, authorise an agreement excluding in relation to that tenancy the provisions of sections 24 to 28 of this Act; and
  - (b) on the joint application of the persons who are the landlord and the tenant in relation to a tenancy to which this Part of this Act applies, authorise an agreement for the surrender of the tenancy on such date or in such circumstances as may be specified in the agreement and on such terms (if any) as may be so specified;

if the agreement is contained in or endorsed on the instrument creating the tenancy or such other instrument as the court may specify; and an agreement contained in or endorsed on an instrument in pursuance of an authorisation given under this subsection shall be valid notwithstanding anything in the preceding provisions of this section.”

## **6 Business carried on by company controlled by landlord**

At the end of section 30 of the Act of 1954 there shall be added the following subsection:—

- “(3) Where the landlord has a controlling interest in a company any business to be carried on by the company shall be treated for the purposes of subsection (1) (g) of this section as a business to be carried on by him.

For the purposes of this subsection, a person has a controlling interest in a company if and only if either—

- (a) he is a member of it and able, without the consent of any other person, to appoint or remove the holders of at least a majority of the directorships ;  
or
- (b) he holds more than one-half of its equity share capital, there being disregarded any shares held by him in a fiduciary capacity or as nominee for another person;

and in this subsection ' company' and ' share' have the meanings assigned to them by section 455(1) of the Companies Act 1948 and ' equity share capital' the meaning assigned to it by section 154(5) of that Act.”

## 7 **Grant of new tenancy in some cases where section 30(1)(f) applies**

(1) After section 31 of the Act of 1954 there shall be inserted the following section:—

(1) Where the landlord opposes an application under section 24(1) of this Act on the ground specified in paragraph (f) of section 30(1) of this Act the court shall not hold that the landlord could not reasonably carry out the demolition, reconstruction or work of construction intended without obtaining possession of the holding if—

- (a) the tenant agrees to the inclusion in the terms of the new tenancy of terms giving the landlord access and other facilities for carrying out the work intended and, given that access and those facilities, the landlord could reasonably carry out the work without obtaining possession of the holding and without interfering to a substantial extent or for a substantial time with the use of the holding for the purposes of the business carried on by the tenant; or
- (b) the tenant is willing to accept a tenancy of an economically separable part of the holding and either paragraph (a) of this section is satisfied with respect to that part or possession of the remainder of the holding would be reasonably sufficient to enable the landlord to carry out the intended work.

(2) For the purposes of subsection (1)(b) of this section a part of a holding shall be deemed to be an economically separable part if, and only if, the aggregate of the rents which, after the completion of the intended work, would be reasonably obtainable on separate lettings of that part and the remainder of the premises affected by or resulting from the work would not be substantially less than the rent which would then be reasonably obtainable on a letting of those premises as a whole.”

(2) In section 32 of the Act of 1954 (property to be comprised in new tenancy) for the words " Subject to the next following subsection " there shall be substituted the words " Subject to the following provisions of this section " ; and after subsection (1) there shall be inserted the following subsection:—

“(1A) Where the court, by virtue of paragraph (b) of section 31A(1) of this Act, makes an order under section 29 of this Act for the grant of a new tenancy in a case where the tenant is willing to accept a tenancy of part of the holding, the order shall be an order for the grant of a new tenancy of that part only.”

## 8 **Power to exclude rights enjoyed with holding**

At the end of section 32(3) of the Act of 1954 (rights to be included in new tenancy) there shall be added the words " except as otherwise agreed between the landlord and the tenant or, in default of such agreement, determined by the court. "

## 9 **Partnerships**

After section 41 of the Act of 1954 there shall be inserted the following section:—

(1) The following provisions of this section shall apply where—

- (a) a tenancy is held jointly by two or more persons (in this section referred to as the joint tenants); and

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

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- (b) the property comprised in the tenancy is or includes premises occupied for the purposes of a business; and
  - (c) the business (or some other business) was at some time during the existence of the tenancy carried on in partnership by all the persons who were then the joint tenants or by those and other persons and the joint tenants' interest in the premises was then partnership property; and
  - (d) the business is carried on (whether alone or in partnership with other persons) by one or some only of the joint tenants and no part of the property comprised in the tenancy is occupied, in right of the tenancy, for the purposes of a business carried on (whether alone or in partnership with other persons) by the other or others.
- (2) In the following provisions of this section those of the joint tenants who for the time being carry on the business are referred to as the business tenants and the others as the other joint tenants.
- (3) Any notice given by the business tenants which, had it been given by all the joint tenants, would have been—
- (a) a tenant's request for a new tenancy made in accordance with section 26 of this Act; or
  - (b) a notice under subsection (1) or subsection (2) of section 27 of this Act; shall be treated as such if it states that it is given by virtue of this section and sets out the facts by virtue of which the persons giving it are the business tenants; and references in those sections and in section 24A of this Act to the tenant shall be construed accordingly.
- (4) A notice given by the landlord to the business tenants which, had it been given to all the joint tenants, would have been a notice under section 25 of this Act shall be treated as such a notice, and references in that section to the tenant shall be construed accordingly.
- (5) An application under section 24(1) of this Act for a new tenancy may, instead of being made by all the joint tenants, be made by the business tenants alone; and where it is so made—
- (a) this Part of this Act shall have effect, in relation to it, as if the references therein to the tenant included references to the business tenants alone ; and
  - (b) the business tenants shall be liable, to the exclusion of the other joint tenants, for the payment of rent and the discharge of any other obligation under the current tenancy for any rental period beginning after the date specified in the landlord's notice under section 25 of this Act or, as the case may be, beginning on or after the date specified in their request for a new tenancy.
- (6) Where the court makes an order under section 29(1) of this Act for the grant of a new tenancy on an application made by the business tenants it may order the grant to be made to them or to them jointly with the persons carrying on the business in partnership with them, and may order the grant to be made subject to the satisfaction, within a time specified by the order, of such conditions as to guarantors, sureties or otherwise as appear to the court equitable, having regard to the omission of the other joint tenants from the persons who will be the tenant under the new tenancy.

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

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- (7) The business tenants shall be entitled to recover any amount payable by way of compensation under section 37 or section 59 of this Act.”

## **10 Group of companies**

For subsection (3) of section 42 of the Act of 1954 (Group of companies) there shall be substituted the following subsection:—

- “(3) Where the landlord's interest is held by a member of a group—
- (a) the reference in paragraph (g) of subsection (1) of section 30 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; and
  - (b) the reference in subsection (2) of that section to the purchase or creation of any interest shall be construed as a reference to a purchase from or creation by a person other than a member of the group.”

### *Miscellaneous*

## **11 Compensation where no application to court is made**

In section 37(1) of the Act of 1954 (compensation where court precluded from making an order for new tenancy on any of the grounds specified in paragraphs (e), (f) and (g) of section 30(1)) after the words " of that subsection" there shall be inserted the words " or where no other ground is specified in the landlord's notice under section 25 of this Act or, as the case may be, under section 26(6) thereof, than those specified in the said paragraphs (e), (f) and (g) and either no application under the said section 24 is made or such an application is withdrawn ".

## **12 Duration of short tenancies excluded from Part II of Act of 1954**

- (1) In section 43(3) of the Act of 1954 (exclusion of certain tenancies granted for not more than three months) for the words " three months ", in both places where they occur, there shall be substituted the words " six months " and for the words " six months " (in paragraph (b)) the words " twelve months ".
- (2) Subsection (1) of this section does not apply to tenancies granted before the commencement of this Act.

## **13 Jurisdiction of county court to make declaration**

After section 43 of the Act of 1954 there shall be inserted the following section:—

Where the rateable value of the holding is such that the jurisdiction conferred on the court by any other provision of this Part of this Act is, by virtue of section 63 of this Act, exercisable by the county court, the county court shall have jurisdiction (but without prejudice to the jurisdiction of the High Court) to make any declaration as to any matter arising under this Part of this Act, whether or not any other relief is sought in the proceedings.”

## **14 Definition of landlord and further provisions where immediate landlord is not the freeholder**

(1) In section 44(1) of the Act of 1954 the following paragraph shall be substituted for paragraph (b):

“(b) that it is either the fee simple or a tenancy which will not come to an end within fourteen months by effluxion of time and, if it is such a tenancy, that no notice has been given by virtue of which it will come to an end within fourteen months or any further time by which it may be continued under section 36(2) or section 64 of this Act”.

(2) The following shall be added at the end of Schedule 6 to the Act of 1954:—

*“Withdrawal by competent landlord of notice given by mesne landlord*

6 Where the competent landlord has given a notice under section 25 of this Act to terminate the relevant tenancy and, within two months after the giving of the notice, a superior landlord—

- (a) becomes the competent landlord; and
- (b) gives to the tenant notice in the prescribed form that he withdraws the notice previously given ;

the notice under section 25 of this Act shall cease to have effect, but without prejudice to the giving of a further notice under that section by the competent landlord.

*Duty to inform superior landlords*

7 If the competent landlord's interest in the property comprised in the relevant tenancy is a tenancy which will come or can be brought to an end within sixteen months (or any further time by which it may be continued under section 36(2) or section 64 of this Act) and he gives to the tenant under the relevant tenancy a notice under section 25 of this Act to terminate the tenancy or is given by him a notice under section 26(3) of this Act:—

- (a) the competent landlord shall forthwith send a copy of the notice to his immediate landlord; and
- (b) any superior landlord whose interest in the property is a tenancy shall forthwith send to his immediate landlord any copy which has been sent to him in pursuance of the preceding sub-paragraph or this sub-paragraph”.

## **15 Certain provisions of Part II of Act of 1954 set out as amended**

Sections 24, 27, 30, 32, 34, 37, 38, 42 and 44 of the Act of 1954 and Schedule 6 to that Act, and section 43(3) of that Act as it applies to tenancies granted after the commencement of this Act, are set out as amended by this Part of this Act in Schedule 1 to this Act.