



# Leasehold (Enlargement and Extension) Act (Northern Ireland) 1971

## 1971 CHAPTER 7

An Act to enable lessees of certain premises held on long leases to purchase the fee simple interest in the land, to enable grantees of certain fee farm grants to redeem their fee farm rents, to enable such lessees to obtain an extension of their leases, and for matters connected with those matters. [18th March 1971]

### **1<sup>F1</sup> General right to acquire fee simple or to obtain extension of lease.**

- (1) A person who, as respects any land, is a person to whom this section applies, shall, subject to the provisions of this Act, have the right as incident to his existing estate in the land—
  - (a) to enlarge that estate into a fee simple, and for that purpose to acquire by purchase the fee simple in the land and any intermediate estates therein;
  - (b) to obtain an extension of his leasehold estate in the land on one occasion only for a term of not more than fifty years.
- (2) The right referred to in subsection (1) may be exercised, subject to subsections (5) and (6),—
  - (a) for the purpose of enlarging a leasehold estate in land into a fee simple, at any time prior to the expiry of the lease under which the land is held for the time being, or the expiration of three months from the service on the lessee by his immediate lessor or any superior lessor of notice of the expiry of that lease, whichever is the later; but that right shall not be capable of being exercised during the period of an extension of the leasehold estate granted by reason of this Act;
  - (b) for the purpose of obtaining an extension of a leasehold estate in the land, at any time not earlier than five years before the expiry of the lease, and not later than the date of the expiry of the lease or the expiration of three months from the service on the lessee by his immediate lessor or any superior lessor of notice of the expiry of that lease, whichever is the later; and that notice shall be a valid notice only if it is served not earlier than five years before the date of the expiry of the lease.

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*Changes to legislation: There are currently no known outstanding effects for the Leasehold (Enlargement and Extension) Act (Northern Ireland) 1971. (See end of Document for details)*

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- (3) Subject to subsections (4) and (6)<sup>[F2 to (8)]</sup>, this section applies to every person where—
- (a) the person is a lessee who holds land under a lease first granted for more than twenty-one years; and
  - (b) the land does not exceed one hectare or two acres, one rood and one thousand and seventy square yards; and
  - (c) there are buildings on the land; and
  - (d) so much of the land as is not covered by the buildings is subsidiary and ancillary to the land which is covered by the buildings; and
  - (e) the person occupies the buildings in whole or in part by virtue of the lease as his sole or principal residence and is not by reason of such occupation in breach of a covenant in the lease; and
  - (f) if the lease will expire within fifty years of the date on which the lessee serves notice upon his immediate lessor under section 2, the lessee has been on that date a person qualified under paragraph ( e) for the period of five years, or for periods amounting to five years in the period of ten years, ending on that date; and for the purposes of this paragraph a lessee shall be deemed to be so qualified if he occupied the buildings in whole or in part as his sole or principal residence for such period or periods in his capacity as a member of the family of his predecessor in title, that is to say, as—
    - (i) the spouse<sup>[F3 or civil partner]</sup> of the predecessor in title;
    - (ii) the child, adopted child or stepchild (whether such child or stepchild be legitimate or not) of the predecessor in title or of his spouse<sup>[F3 or civil partner]</sup>;
    - (iii) the son-in-law or daughter-in-law of the predecessor in title or of his spouse<sup>[F3 or civil partner]</sup>;
    - (iv) the parent or parent-in-law of the predecessor in title or of his spouse<sup>[F3 or civil partner]</sup>; and
  - (g) the rent reserved by the lease does not exceed a ground rent.
- (4) This section shall not apply to persons who hold land under the following leases—
- (a) a lease of land which is used for the purposes of a business unless the buildings on the land are used in whole or in part as the lessee's sole or principal residence;
  - (b) a lease of land where the buildings on the land are divided into more than three separate and self-contained flats, that is to say, four or more suites of rooms each of which suites forms within itself a complete residence irrespective of whether the rooms in each suite are or are not all on the same floor, being a lease which contains provisions enabling the amount of the rent reserved by the lease to be altered within twenty-one years from the commencement of the lease;
  - (c) a lease of land containing a covenant, condition or agreement by the lessee to erect a building or buildings or carry out development on the land where the covenant, condition or agreement has not been complied with;
  - (d) a lease of agricultural land, including farm houses and farm buildings;
  - (e) a mining lease;
  - (f) a lease made either in consideration of, or stated to be dependent on, the continuance of the lessee in any office, employment or appointment;

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- (g) a lease granted in breach of any prohibition against the granting thereof contained in any other lease or agreement.
  - <sup>F4</sup>(h) a lease of land granted<sup>[F2]</sup>, otherwise than in pursuance of Chapter I of Part III of the Housing (Northern Ireland) Order 1986] by the Northern Ireland Housing Executive or a housing association registered under the Housing (Northern Ireland) Order 1981 and declared for the purposes of this section to be an equity-sharing lease within the meaning of Article 31(6)(a) of that Order.]
- (5) Where a notice of expiry of a lease has not been served on the lessee, references in subsection (2) to the service of such a notice includes references to the institution against the lessee of proceedings for the recovery of possession of the land by reason of such expiry.

*Subs.(6) spent*

- <sup>[F2]</sup>(7) Subject to subsection (8), where a lease is granted in pursuance of Chapter I of Part II of the Housing (Northern Ireland) Order 1983 or of Chapter I of Part III of the Housing (Northern Ireland) Order 1986, this section shall have effect in relation to such a lease as if paragraph (a) of subsection (3) were omitted.
- (8) Notwithstanding anything in subsection (7), where, in pursuance of Chapter I of Part III of the Housing (Northern Ireland) Order 1986, a lease is granted in respect of a dwelling-house which is a house, then, so long as the rent payable under the lease exceeds  $\text{£}10$  per annum, this section shall not have effect in relation to such a lease.
- (9) Expressions used in subsections (7) and (8), which are defined in Chapter I of Part II of the Housing (Northern Ireland) Order 1983, shall have the meanings given in that Chapter.]

<b>F1</b>	functions transf. 1982 NI 6
<b>F2</b>	1986 NI 13
<b>F3</b>	<a href="#">2004 c.33</a>
<b>F4</b>	1981 NI 3

## **2<sup>F5</sup> Notice of intention to acquire fee simple or to obtain grant of an extended lease.**

- (1) Where a person proposes to acquire the fee simple in the land or an extension of his leasehold estate in the land by virtue of this Act he shall serve a notice in the prescribed form upon each of the following persons who can be found and ascertained, that is to say,—
- (a) the person who is for the time being entitled to the next superior estate in the land; and
  - (b) every person (if there be any such person) who is, in relation to the land, a superior lessor of the person so proposing; and
  - (c) every mortgagee of the land (if there be any such person); and
  - (d) every owner of any other incumbrance affecting the land (if there be any such person).
- (2) It shall be a sufficient compliance with subsection (1)(a) if the notice is served on the person to whom the rent under the lease is paid.

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- (3) Where for any reason whatsoever a notice served under subsection (1) is defective, the Lands Tribunal may allow the person who served the defective notice to serve an amended notice within such time and subject to such order as to costs as the Tribunal may determine.

**F5** functions transf. 1982 NI 6

### **3<sup>F6</sup> Conveyance of fee simple.**

- (1) Where, in relation to land the fee simple in which is proposed to be acquired by a person under this Act, a notice under section 2 is served, the person by whom it is served and every person upon whom it is served shall take every necessary step which is within his power to take to effect a conveyance free from incumbrances of the fee simple and any intermediate estates in the land to the person proposing to acquire the fee simple.
- (2) In subsection (1) and section 14 “incumbrances” does not include a mortgage of the estate of the person proposing to acquire the fee simple, and, upon conveyance of the fee simple in land to a person who is acquiring the fee simple therein under this Act the fee simple estate shall be a graft for all purposes on the leasehold estate of the person so acquiring the fee simple and his estate in fee simple shall be subject to any rights or equities arising from the fee simple being such a graft, and, in particular, any undischarged mortgage of that leasehold estate shall attach to, and be enforceable against, the fee simple so acquired.
- (3) Where by reason of subsection (2) the fee simple in land is subject to a mortgage, and at the time of the execution of the conveyance of the fee simple the mortgagee is by reason of the mortgage entitled to possession of the documents of title relating to the land, then he shall be similarly entitled to possession of the documents of title relating to the fee simple and the grantee of the fee simple shall within six weeks of the execution of the conveyance of the fee simple deliver it to him, and the mortgage shall apply in the event of the grantee failing unreasonably to deliver the conveyance in accordance with this subsection as if the obligation to do so were included in the terms of the mortgage as set out in that instrument.

**F6** functions transf. 1982 NI 6

### **4<sup>F7</sup> Notice requiring information.**

- (1) For the purpose of securing the joinder of all necessary parties in the conveyance of the fee simple in land to a person entitled to acquire it under this Act, and, accordingly, for the purpose of effectively serving any notice under section 2, that person may serve all or any of the following notices—
- (a) on his immediate lessor or the person to whom he pays the rent under the lease a notice in the prescribed form requiring such lessor or person to inform him of the nature and duration of that lessor's reversion in the land comprised in the lease or any part thereof, the amount, if any, paid by that lessor to any other person for the collection of the rent reserved by the lease, and the name and address of the immediately superior lessor, if any, of that lessor;
  - (b) on any person whom the person so entitled reasonably believes to be a superior lessor or the agent of a superior lessor, a notice in the prescribed form requiring

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such person to inform him whether such person or any person for whom such person is agent has or has not any estate in the land or any part thereof, the nature, tenure and duration of such estate, if any, and the names and addresses of the persons having estates in the said land or any part thereof immediately superior or immediately inferior to such estate.

- (2) The information which any such person as is mentioned in paragraphs ( a ) and ( b ) of subsection (1) is required to give under that subsection shall include information, where such information is in the knowledge of the person, whether there is a mortgage of the estate in the land of the immediate lessor or of the superior lessor and, if so, what is the name and address of the mortgagee under the mortgage.
- (3) Where a mortgagee is in possession of an estate in the land or any part thereof, being an estate in reversion expectant (whether immediately or not) on the estate of the person entitled to acquire the fee simple under this Act that person may serve a notice in the prescribed form requiring the mortgagee to inform him—
  - (a) of the nature and duration of the estate of his mortgagor; and
  - (b) of the name and address of the immediate lessor, if any, of his mortgagor.
- (4) It shall be the duty of any person on whom a notice is served under this section to furnish in writing within six weeks after the service of such notice to the person by whom such notice was so served, the information asked for by such notice so far as it is within the possession or procurement of such person.
- (5) Where a notice is served under this section and the person on whom such notice is so served fails or neglects to furnish in writing, within the time limited by this section, the information he is required by this section so to furnish, the person by whom the notice was served may apply to the Lands Tribunal and on the hearing of such application the Lands Tribunal may make such order as it thinks necessary with a view to compelling such person so to furnish such information and any such order may be enforced by mandamus.
- (6) In this section “mortgagee in possession” includes a receiver, appointed by the mortgagee or by a court of competent jurisdiction who is in receipt of the rents and profits, and the expression “his mortgagor” shall be construed accordingly.

<b>F7</b> functions transf. 1982 NI 6
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## **5<sup>F8</sup> Provisions in relation to parties to conveyance of fee simple.**

- (1) Where a person who is required by this Act to convey or join in the conveyance of the fee simple in land is, by reason of having a fiduciary capacity or a limited estate or by reason of restrictive covenants in the lease under which he holds, incapable in law of conveying or joining in, (as the case may be) the conveyance of the fee simple, the Lands Tribunal may, on the application of any person concerned, empower the person so required to convey or join in conveying (as the case may be) the fee simple.
- (2) Where a person who is required by this Act to convey or join in conveying the fee simple in land is a minor or is unknown or unascertained or refuses or fails to execute such conveyance, the Lands Tribunal may, on the application of any person concerned, appoint an officer of the Tribunal to execute such conveyance for and in the name of the person so required and thereupon the execution of such conveyance by such officer for and in the name of such person shall for all purposes be as effectual as the

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execution thereof by such person and as if, where such person is under any disability, he were not under that disability.

- (3) Where any person who is required by this Act to convey or join in conveying the fee simple in land is unknown or unascertained, the Lands Tribunal may, on the application of the person entitled under this Act to acquire the fee simple, appoint any person who is receiving the rent in respect of the interest in the land of the person so entitled, or such other person as the Tribunal may think fit to appoint, to represent such unknown or unascertained person in all proceedings in connection with the conveyance of the fee simple in the land, and may, at the same time or subsequently, appoint an officer of the Tribunal to execute such conveyance for and on behalf of the person so required and unknown or unascertained and thereupon the execution of such conveyance by such officer for and on behalf of such person shall for all purposes be as effectual as the execution thereof by such unknown or unascertained person.
- [<sup>F9</sup>(4) Without prejudice to the powers of a person appointed attorney under an enduring power of attorney which has taken effect, where a person who is required by this Act to convey or join in conveying the fee simple in the land is incapable, by reason of mental disorder within the meaning of the Mental Health (Northern Ireland) Order 1986, of managing and administering his property and affairs, his controller or (if no controller is acting for him) any person authorised in that behalf under an order of the High Court may represent him for all or any of the purposes of this Act.]
- (5) Where under subsection (2) or (3) the Lands Tribunal appoints a person to execute, or join in the execution of, a conveyance of the fee simple in land for and in the name of or for and on behalf of any person, the Tribunal may order that the purchase money payable to that person in consideration of the conveyance of his estate in the land be paid into the [<sup>F10</sup>Court of Judicature] before the execution of the conveyance and, upon such payment, any estate, right or interest in or claim against the land of that person existing at the time of such payment shall be transferred and shall attach to the money and the Court may make such order, or give such direction, for the disbursement and distribution of the money (including money remaining unclaimed) and any interest or dividends thereon, as it may deem proper.
- (6) Where a person upon whom a notice under section 2 in relation to land is required to be served cannot be found or ascertained, the person shall be deemed, for the purposes of this section, to be a person who is required by this Act to convey or join in conveying the fee simple in the land.
- (7) A power conferred on the Lands Tribunal by this section or by section 11 shall be exercised in relation to a minor who is a ward of court only by leave of [<sup>F11</sup> the High Court], and for the purpose of obtaining such leave the Tribunal shall furnish to [<sup>F11</sup> the High Court] all such information which the Tribunal considers to be relevant and such further information as [<sup>F11</sup> the High Court] may require.

**F8** functions transf. 1982 NI 6

**F9** 1997 NI 8

**F10** Words in s. 5(5) substituted (1.10.2009) by [Constitutional Reform Act 2005 \(c. 4\), ss. 59\(5\), 148\(1\), Sch. 11 para. 6; S.I. 2009/1604, art. 2\(d\)](#)

**F11** 1978 c.23

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## **6<sup>F12</sup> Liability for costs in relation to acquisition of fee simple.**

A person (in this section referred to as the applicant) who proposes to acquire the fee simple in land by virtue of this Act shall be liable for the payment of the reasonable costs and expenses actually and necessarily incurred in complying with the provisions of this Act by a person upon whom a notice under section 2 or 4 in relation to the land has been served but, if a notice under section 7 in relation to the land is served on the person upon whom the notice under section 2 was served, the applicant shall be liable only for the payment of any such costs or expenses incurred by that last-mentioned person prior to the service of the notice under section 7.

**F12** functions transf. 1982 NI 6

## **7<sup>F13</sup> Power to discontinue acquisition of fee simple or grant of extension of lease.**

Where a notice under section 2 in relation to land is served by a person, that person may, at any time before conveyance to him of the fee simple in the land or, as the case may be, the grant to him of an extension of his leasehold estate in the land, discontinue the acquisition of the fee simple or the obtaining of such a grant by serving a notice in the prescribed form upon each person upon whom a notice under the said section 2 was served stating that he is withdrawing the said notice and does not intend to acquire the fee simple in the land or, as the case may require, to obtain the grant of an extension of such leasehold estate.

**F13** functions transf. 1982 NI 6

## **8<sup>F14</sup> General right to apportionment of rent.**

- (1) Where a person who is entitled to acquire under this Act the fee simple in land held by him under a lease has served a notice under section 2 of his intention to acquire that fee simple, every lessee shall be entitled to have the rent payable by him in respect of the land and any other land held under the same lease apportioned under this Act between the land the fee simple in which is to be acquired and the other land.
- (2) Where land demised by a lease is held by more than one person each of whom is a person to whom section 1 applies and the rent reserved by the lease is being paid to the lessor by one only of the persons, that person shall be entitled to have the rent apportioned between the part of the land held by him and the part of the land held by each such other person who is liable for the payment of part of the rent to the person so entitled.
- (3) Where a rent reserved by a lease is apportioned under this Act between different parts of the land demised by the lease—
  - (a) any such part shall be subject to the payment to the lessor only of the portion of the rent apportioned in respect thereof and shall not be subject to the payment to any other person of any portion of the rent; and
  - (b) any such part shall be subject only to the performance and observance of the covenants and conditions contained in the lease in so far as they are applicable to that part and not otherwise, in the same manner as if that part only were demised by the lease subject to the apportioned rent and subject to the performance and observance of the covenants and conditions aforesaid.

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- (4) Where a rent reserved by a lease is apportioned under this Act—
- (a) a fine, or payment in the nature of a fine, shall not be charged or payable for or in respect of the apportionment;
  - (b) the total of the rents payable as a result of the apportionment shall not exceed the amount of the rent reserved by the lease together with the estimated additional cost, if any, attributable to the apportionment, of collecting the apportioned rents;
  - (c) the estimated additional cost, if any, attributable to the apportionment, of collecting the apportioned rents shall be determined at the time of the apportionment and shall be included in the apportioned rent payable by the person by whom the notice under section 9 relating to the lease was served.

**F14** functions transf. 1982 NI 6

**9<sup>F15</sup> Notice of intention to have rent apportioned.**

A person who proposes to have a rent reserved by a lease apportioned under this Act shall serve a notice in the prescribed form upon each of the following persons who can be found and ascertained, that is to say, the person to whom the rent is payable and any other person who holds any of the land demised by the lease as lessee.

**F15** functions transf. 1982 NI 6

**10<sup>F16</sup> Apportionment of rent.**

Where, in relation to a rent which is proposed to be apportioned under this Act, a notice under section 9 is served, the person by whom it is served and every person upon whom such a notice is served shall, without unreasonable delay, take all necessary steps to effect an apportionment of the rent to which the notice relates.

**F16** functions transf. 1982 NI 6

**11<sup>F17</sup> Provisions in relation to parties to apportionment of rent.**

- (1) Where a person who is required by this Act to join in the apportionment of a rent is, by reason of having a fiduciary capacity or a limited estate or by reason of restrictive covenants in the lease under which he holds, incapable in law of joining in the apportionment, the Lands Tribunal may, on the application of any person concerned, empower the person so required to join in the apportionment.
- (2) Where a person who is required by this Act to join in the apportionment of a rent is a minor or is unknown or unascertained or refuses or fails to execute any relevant document, the Lands Tribunal may, on the application of any person concerned, appoint an officer of the Tribunal to execute such document for and in the name of the person so required and thereupon the execution of such document by such officer for and in the name of such person shall for all purposes be as effectual as the execution thereof by such person and as if, where such person is under any disability, he were not under that disability.



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(3) Where any person who is required by this Act to join in the apportionment of a rent is unknown or unascertained, the Lands Tribunal may, on the application of the person seeking the apportionment, appoint any person who is receiving the rent in respect of the estate in the land of the person making the application, or such other person as the Tribunal may think fit to appoint, to represent such unknown or unascertained person in all proceedings in connection with the apportionment, and may, at the same time or subsequently, appoint an officer of the Tribunal to execute any relevant document for and on behalf of the person so required and unknown or unascertained, and thereupon the execution of such document by such officer for and on behalf of such person shall for all purposes be as effectual as the execution thereof by such unknown or unascertained person.

[<sup>F18</sup>(4) Without prejudice to the powers of a person appointed attorney under an enduring power of attorney which has taken effect, where a person who is required by this Act<sup>F18</sup> to join in the apportionment of a rent] is incapable, by reason of mental disorder within the meaning of the Mental Health (Northern Ireland) Order 1986, of managing and administering his property and affairs, his controller or (if no controller is acting for him) any person authorised in that behalf under an order of the High Court may represent him for all or any of the purposes of this Act.]

(5) Where a person upon whom a notice under section 9 in relation to rent is required to be served cannot be found or ascertained, the person shall be deemed, for the purposes of this section, to be a person who is required by this Act to join in the apportionment of the rent.

**F17** functions transf. 1982 NI 6

**F18** 1997 NI 8

## **12** <sup>F19</sup> **Liability for costs in relation to apportionment of rent.**

A person (in this section referred to as the applicant) who proposes to have a rent apportioned under this Act shall be liable for the payment of the reasonable costs and expenses actually and necessarily incurred in complying with the provisions of this Act by a person upon whom a notice under section 9 in relation to the rent has been served, but if a notice under section 13 in relation to the rent is served upon the person, the applicant shall be liable only for the payment of any such costs or expenses incurred by the person prior to the service of the notice under section 13.

**F19** functions transf. 1982 NI 6

## **13** <sup>F20</sup> **Right to discontinue application for apportionment of rent.**

Where a notice under section 9 in relation to a rent is served by a person, the person may, at any time before the apportionment of the rent, discontinue the application for the apportionment by serving a notice in the prescribed form upon each person upon whom a notice under the said section 9 was served stating that he is withdrawing the said notice and does not intend to have the rent apportioned.

**F20** functions transf. 1982 NI 6

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#### 14<sup>F21</sup> **Determination of purchase price of fee simple.**

- (1) Subject to [<sup>F22</sup> subsections (2) and (3)], the purchase price of the fee simple being acquired under this Act shall be the amount which, at the date on which the notice is served under section 2, the land, if sold in the open market by a willing seller (with the lessee in possession not buying or seeking to buy), might be expected to realise on the following assumptions—
- (a) on the assumption that the vendor was selling for an estate in fee simple, subject to the lease of the lessee in possession but on the assumption that this Act conferred no right to acquire the fee simple, and if that lease has not been extended under this Act, on the assumption that (subject to the lessor's rights under section 19) it was to be so extended;
  - (b) on the assumption that (subject to paragraph (a) above) the vendor was selling subject, in respect of rent-charges and other rents, to the same annual charge as the conveyance to the lessee is to be subject to, but the purchaser would otherwise be effectively exonerated until the termination of the lease from any liability or charge in respect of incumbrances; and
  - (c) on the assumption that (subject to paragraphs (a) and (b) above) the vendor was selling with and subject to the rights and burdens with and subject to which the conveyance to the lessee is to be made.
- (2) The price payable for the land shall be subject to such deduction, if any, in respect of any defect in the title to be conveyed to the lessee as on a sale in the open market might be expected to be allowed between a willing seller and a willing buyer.

#### <sup>F23</sup>(3) Where—

- (a) the notice is served under section 2 after the commencement of the Leasehold (Enlargement and Extension) Amendment (Northern Ireland) Order 1981 ; or
- (b) the notice was served before that commencement but the price had not been determined (by agreement or otherwise) by then,

the price cannot be made less favourable to the lessee by reference to either—

- (i) a transaction on or after 15th February 1979 involving the creation or transfer of an interest superior to (whether or not preceding) the lessee's; or
- (ii) an alteration since that date of the terms on which such an interest is held.]

**F21** functions transf. 1982 NI 6

**F22** 1981 NI 5

**F23** 1981 NI 5

#### 15<sup>F24</sup> **Provisions with respect to acquisition of fee simple or grant of extension in respect of sub-leases.**

- (1) Where a person serves a notice under section 2 in respect of a lease which is not held immediately of the owner of the fee simple in the land comprised in the lease, the rights and duties of the lessor under this Act shall, in so far as their estates in the land are affected, be the rights and duties respectively of the lessor and every superior lessor, and for the purpose of carrying on any proceedings for the purposes of this Act, the lessor and all of the superior lessors shall be represented by one only of them, in this section referred to as “the reversioner”, and the lessors other than the reversioner are referred to as “the other lessors” .

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- (2) Where there is a lease reversionary on a lease in respect of which a person serves a notice under section 2, then (except in so far as special provision is made for such a reversionary lease) this section shall have effect as if the reversionary lease were a concurrent lease intermediate between the lease of the lessee in possession and any estate superior to that last-mentioned lease.
- (3) In default of agreement between the lessors, the reversioner shall be the immediate lessor if the estate of that lessor has an expectation in possession of thirty years or more, and if that estate has not such an expectation, the reversioner shall be the next superior lessor whose estate has such an expectation, and if he acts in good faith and with reasonable care and diligence, the reversioner shall not be liable to any of the other lessors for any loss or damage caused by any act or omission in the exercise or intended exercise of his functions under this section.
- (4) Notwithstanding anything in subsection (1), any of the other lessors shall be entitled, if he so desires, to be separately represented in any proceedings in which his title to any property comes in question, or in any proceedings relating to the price payable for the land under section 14.
- (5) For the purpose of deducing, evidencing or verifying his title to any property, any of the other lessors, on giving written notice to the reversioner and to the lessee, may deal directly with the lessee, if he objects to disclosing his title to the reversioner, and he shall deal directly with the lessee if the lessee by written notice given to him and to the reversioner so requires.
- (6) For the purpose of agreeing the price payable for his estate under section 14, any of the other lessors, on giving written notice to the reversioner and to the lessee, may deal directly with the lessee; and whether he does that or not, he may require the reversioner to apply to the Lands Tribunal for the price to be determined by the Lands Tribunal.
- (7) Any of the other lessors shall be entitled to require that the price payable for his estate (or so much of it as is payable to him) shall be paid by the lessee to him or to a person authorised by him to receive it, instead of to the reversioner; but if, after being given proper notice of the time and place fixed for completion with the lessee, neither he nor a person so authorised attends to receive payment, and he has not made, and notified the reversioner of other arrangements with the claimant to receive payment, the reversioner shall be authorised to receive it for him and the reversioner's written receipt for the amount payable shall be a complete discharge to the lessee.
- (8) It shall be the duty of each of the other lessors—
  - (a) subject to subsections (5) and (6), to give the reversioner all such information and assistance as he may reasonably require; and
  - (b) after being given proper notice of the time and place fixed for completion with the lessee (if the lessee is acquiring the fee simple), to ensure that all deeds and other documents that ought on his part to be delivered to the lessee on completion are available for the purpose of perfecting the lessee's title;and, if any of the other lessors fail to do so, he shall indemnify the reversioner against any liability incurred by the reversioner in consequence of the failure.
- (9) Each of the other lessors shall make such contribution as may be just to the costs and expenses incurred by the reversioner and not recoverable or not recovered from the lessee.

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- (10) The authority given by this section to the reversioner shall not extend to the bringing of proceedings under section 19 on behalf of any of the other lessors, or preclude any of the other lessors from bringing proceedings under that section on his own behalf; and (without prejudice to subsection (2)) a person entitled to a lease reversionary on the lease in possession may make an application under section 19 as lessor.
- (11) Where a conveyance of the fee simple is executed for the purposes of this Act—
- (a) a separate price shall be payable in accordance with section 14 for each of the estates superior to the lease in possession, and that section shall apply to the computation of that price with such modifications as are appropriate to relate it to a sale of the estate in question subject to any estates intermediate between that estate and the lease in possession, together with lessee's incumbrances relative to those estates; and
  - (b) section 16 shall apply separately to the price payable for each estate.
- (12) For purposes of this section and section 17 the expectation of possession carried by a lease is the expectation which it carries of possession after the lease in possession at the date on which notice under section 2 is served, on the basis that—
- (a) the lease in possession terminates at that date if its term date fell before then, or else terminates at its term date or (in the case of a lease which has been extended) its original term date; and
  - (b) a lease other than the lease in possession terminates at its term date, so, however, that where before the date on which the notice is served under section 2 the immediate lessor had given to the lessee in possession notice to quit terminating the lease at a date earlier than the term date, the date specified in the notice to quit shall be substituted for the date in paragraph (a).

F24 functions transf. 1982 NI 6
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## 16<sup>F25</sup> Discharge of mortgages on lessor's estate.

- (1) A conveyance of the fee simple for the purposes of this Act shall be effective to discharge any mortgage of the lessor's estate in the land so conveyed (not being a mortgage subject to which the conveyance is required to be made) together with any order for the enforcement of the mortgage, and to extinguish any term of years created for the purpose of the mortgage, without the mortgagee being a party to or executing the conveyance.
- (2) Where a mortgage is discharged by virtue of the operation of subsection (1), the lessee to whom the fee simple is conveyed shall in the first instance pay the purchase price to the mortgagee under the mortgage in satisfaction of the mortgage debt and the mortgagee shall deal with the purchase price so paid, and account to the mortgagor therefor, as if the price were the proceeds of a mortgagee's power of sale for the enforcement of the mortgage and if the purchase price is not so paid to the mortgagee by the lessee the land shall remain subject to the mortgage, and to that extent subsection (1) shall not apply.
- (3) Where by virtue of this section land is discharged from a mortgage and the obligations secured by the mortgage are not satisfied by the payment of the purchase price, or of part thereof, the discharge shall be without prejudice to any right or remedy for the enforcement of those obligations against other property comprised in the same or any

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other security, and to any personal liability as principal or otherwise of the mortgagor or of any other person.

**F25** functions transf. 1982 NI 6

## 17<sup>F26</sup> **General provisions in relation to extension of leases.**

- (1) Where the reversion immediately expectant on the expiration of a lease is less than the term for which an extension of the lease is to be granted, the immediate lessor and the owners of such estates in the land, if any, as are superior to that of the immediate lessor as may be necessary shall, on receiving a notice under section 2 of a proposal to acquire an extended lease in relation to the land, join in the grant of the extension of the lease.
- (2) For the purpose of securing the joinder of all necessary parties in the grant of an extension of a lease, the lessee may serve all or any of the following notices:—
  - (a) on his immediate lessor or the person to whom he pays the rent under the lease a notice in the prescribed form requiring such lessor or person to inform him of the nature and duration of that lessor's reversion in the land comprised in the lease or any part thereof and the name and address of the immediately superior lessor, if any, of that lessor;
  - (b) on any person whom the person so entitled reasonably believes to be a superior lessor or the agent of a superior lessor, a notice in the prescribed form requiring such person to inform him whether such person or any person for whom such person is agent has or has not any estate in the land or any part thereof, the nature, tenure and duration of such estate, if any, and the names and addresses of the persons having estates in the said land or any part thereof immediately superior or immediately inferior to such estate.
- (3) The information which any such person as is mentioned in paragraphs (a) and (b) of subsection (2) is required to give under that subsection shall include information, where such information is in the knowledge of the person, whether there is a mortgage of the estate in the land of the immediate lessor or of the superior lessor and, if so, what is the name and address of the mortgagee under the mortgage.
- (4) Where a mortgagee is in possession of an estate in the land or any part thereof, being an estate in reversion expectant (whether immediately or not) on the estate of the lessee, the lessee may serve a notice in the prescribed form requiring the mortgagee to inform him—
  - (a) of the nature and duration of the estate of his mortgagor; and
  - (b) of the name and address of the immediate lessor, if any, of his mortgagor.
- (5) It shall be the duty of any person on whom a notice is served under this section to furnish in writing within six weeks after the service of such notice to the person by whom such notice was so served, the information asked for by such notice so far as it is within the possession or procurement of such person.
- (6) Where a notice is served under this section and the person on whom such notice is so served fails or neglects to furnish in writing, within the time limited by this section, the information he is required by this section so to furnish, the person by whom the notice was served may apply to the Lands Tribunal and on the hearing of such application the Lands Tribunal may make such order as it thinks necessary with a view to compelling

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such person so to furnish such information and any such order may be enforced by mandamus.

- (7) The foregoing provisions of this section shall not apply to a notice served by or on the lessee more than five years before the date on which his lease would determine by effluxion of time or could be brought to an end by notice to quit served by the immediate lessor.
- (8) Where a lessee to whom section 1 applies fails to apply for an extension of his lease within the time specified in section 1(2) or (6), the Lands Tribunal may, on such terms as the Tribunal thinks proper, extend such time where it is satisfied that the failure was occasioned by disability, mistake, absence from the United Kingdom, inability to obtain requisite information or any other reasonable cause.
- (9) Where an application is made by notice pursuant to section 2 for an extension of a lease before the expiration of the lease under which the applicant lessee holds (in this subsection referred to as the old lease), the extension of the old lease shall commence on the date on which the old lease would otherwise have expired; and where such an application is made after the expiration of the old lease, the extension of the old lease shall for all purposes be deemed to have commenced on the date on which the old lease expired.
- (10) Where an application is made by notice pursuant to section 2 for an extension of a lease, then unless the application lapses under any provision of this Act excluding the liability of the applicant lessee, there shall be borne by him (so far as they are incurred in pursuance of the notice) the reasonable costs of or incidental to any of the following matters:—
- (a) any investigation by the lessor of that person's right to an extended lease;
  - (b) the execution of the extension of the lease;
  - (c) any valuation of land together with the buildings standing thereon obtained by the lessor before the execution of the extension of the lease for the purpose of fixing the rent payable under the extended lease in accordance with section 18.
- (11) A lessee shall not be entitled to require the execution of an extension of the lease under this section otherwise than on tender of the amount, so far as ascertained,—
- (a) of any sums payable by way of rent or recoverable as rent in respect of the land up to the date of tender; and
  - (b) of any sums for which at that date the lessee is liable under subsection (10); and
  - (c) of any other sums due and payable by him to the lessor under or in respect of the lease or any agreement collateral thereto;
- 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.
- (12) Where an extension of a lease is executed for the purposes of this section, and any mortgagee of the lessor's estate is by reason thereof entitled to possession of the documents of title relating to that estate, the lessor shall within six weeks after execution of the extension deliver to that person a counterpart of it duly executed by the lessee, and the instrument creating or evidencing the mortgage shall apply in the event of his failing unreasonably to deliver a counterpart in accordance with this subsection as if the obligation to do so were included in the terms of the mortgage as set out in that instrument.

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- (13) Where an extended lease is subject to a subsisting mortgage of the lessee's estate in the land, and at the time of the execution of the extension the mortgagee is by reason of the mortgage entitled to possession of the documents of title relating to the land, then he shall be similarly entitled to possession of the documents of title relating to the extended lease and the lessee shall within six weeks of the execution of the extension of the lease deliver it to him, and the mortgage shall apply in the event of the lessee failing unreasonably to deliver the lease in accordance with this subsection as if the obligation to do so were included in the terms of the mortgage as set out in that instrument.
- (14) A lessor granting an extension of a lease under this section shall be bound to take such steps as may be necessary to secure that it is not liable to be defeated by persons interested in a mortgage of his estate; but a lessor is not obliged, in order to grant an extension of a lease under this Act, to acquire a better title than he has or could require to be vested in him.
- (15) In this section “mortgagee in possession” includes a receiver, appointed by the mortgagee or by a court of competent jurisdiction, who is in receipt of the rents and profits, and the expression “his mortgagor” shall be construed accordingly.

**F26** functions transf. 1982 NI 6

## **18**<sup>F27</sup> **Terms of extension of lease.**

- (1) Where under the provisions of this Act a lease is extended, the extension shall (subject to any terms, conditions or covenants referred to in subsection (2)) be a graft for all purposes on and a continuation of the old lease and, in particular, the estate of the lessor and of the lessee under the extension of the lease shall be subject to any undischarged mortgage of the estate of the lessee which was entered into prior to the execution of the extension and to any other rights or equities arising from the extension being such a graft and continuation.
- (2) The old lease shall be extended for such period not exceeding fifty years and be subject to and contain such terms and conditions as the parties may agree or the Lands Tribunal shall determine and, in any case where the Tribunal fixes the covenants and conditions of the extended lease, the lessee shall be made liable to pay all rates and taxes in respect of the land (other than the lessor's proportion of income tax) and to insure against fire and keep the premises in repair.
- (3) The rent shall be such sum as the parties shall agree upon or such sum as the Lands Tribunal considers fair having regard to the ground rents created in respect of similar land in the area in which the land is situate within one year of the date of the service of the notice under section 2, and if no such ground rents have been so created, such sum as the Lands Tribunal considers to be a fair modern ground rent; and the rent shall, if the lessor so requires, be subject to revision twenty-five years after the date on which the old lease would have expired, on such terms as the parties may agree upon or as the Lands Tribunal shall determine in accordance with the provisions of this subsection; and for the purposes of this subsection, but not otherwise, “ground rent” means the rent which a lessee might reasonably be expected to pay for the land comprised in the extended lease, excluding any buildings standing thereon, for the duration, or, as the case may be, the remainder, of the extension.
- (4) The Lands Tribunal may require an applicant for an extended lease to expend, within such time as the Tribunal shall think proper, a specified sum of money on repairs or

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to execute specified repairs to the buildings on the land comprised in the lease and may authorise the postponement of the execution of the extension of the lease until the requirement has been complied with, and the Tribunal shall also have power to extend the time on being satisfied that there is reasonable cause for granting such extension; and, if the applicant neglects or refuses to comply with the requirement of the Tribunal within the specified or extended time, the Tribunal shall have power to declare him to have forfeited his right to an extended lease.

(5) In this section “old lease” has the meaning assigned to it by section 17(9).

F27 functions transf. 1982 NI 6
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## 19<sup>F28</sup> Restrictions on right to extension of lease or to acquire fee simple.

(1) Where the estate in reversion in the land of the lessor under a lease to which this Act applies is an estate of freehold or is for a term of not less than fifteen years the lessor may, not later than twelve months after the date on which a notice is served under section 2, apply to the Lands Tribunal for an order that he may resume possession of the land on the expiry of the lease on any one or more of the following grounds—

- (a) if the lessor's estate was purchased or created before 30th July 1967, that the land is reasonably required by him for the purpose of occupying the buildings thereon as his sole or principal residence or as the sole or principal residence of an adult member of the lessor's family or, where the lessor is a trustee, the land is so required in respect of a beneficiary under the trust or of an adult member of the family of such a beneficiary, and for the purposes of this paragraph references to the family of a person means—
  - (i) the spouse<sup>F29</sup> or civil partner] of that person;
  - (ii) a child,<sup>F30</sup> . . . or stepchild (whether such child or stepchild be legitimate or not) of that person who has attained the age of eighteen years;
  - (iii) a son-in-law or daughter-in-law of that person;
  - (iv) a parent or parent-in-law of that person;
- (b) that he *bona fide* proposes, or has agreed, to pull down and rebuild or to reconstruct the whole or a substantial portion of the buildings on the land comprised in the lease;
- (c) that he requires vacant possession of such land for the purpose of carrying out a scheme of development of property which includes such land,

so, however, that an order shall not be made on the ground of paragraph (a) if the Lands Tribunal is satisfied that having regard to all the circumstances of the case, including the question whether other accommodation is available for the lessor or the lessee, greater hardship would be caused by making the order than by refusing to make it.

(2) Where a notice of intention to acquire the fee simple in land is served under section 2 and the lessor of the land, or the owner of any estate in the land superior to that of the lessor, is a body to which this subsection applies, the body may apply to the Minister of Development<sup>F31</sup> for a certificate that it is not in the public interest that the fee simple in the land be acquired, and, if the Minister so certifies and the body sends to the lessee a copy of that certificate within six weeks of the date of the service of the notice, the right of the lessee to acquire the fee simple in the land shall determine and be extinguished.

(3) Subsection (2) applies to—



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- (a) any local authority<sup>F32</sup>, that is to say the council of a county or of a county or other borough or of an urban or rural district;
  - (b) a new town Commission established under the New Towns Act (Northern Ireland) 1965 ;
  - <sup>F33</sup>(c) the Northern Ireland Housing Executive;]
  - (d) a body designated as such for the purposes of subsection (2) by the Ministry of Development<sup>F34</sup> by order made subject to affirmative resolution.
- (4) Where an order has been made under subsection (1) the right of the lessee of the land to obtain an extension of his lease or to acquire the fee simple in the land shall determine and be extinguished but the lessee shall be entitled to be paid compensation under section 20.

<b>F28</b>	functions transf. 1982 NI 6
<b>F29</b>	<a href="#">2004 c.33</a>
<b>F30</b>	1987 NI 22
<b>F31</b>	SRO (NI) 1973/504; 1976 NI 6
<b>F32</b>	<a href="#">1972 c.9 (NI)</a>
<b>F33</b>	1981 NI 3
<b>F34</b>	SRO (NI) 1973/504; 1976 NI 6

## **20**<sup>F35</sup> **Compensation for loss of right to extension of lease or to acquire fee simple.**

- (1) Where the Lands Tribunal is satisfied that a lessee would, but for the provisions of section 19(1), be entitled to obtain an extension of his leasehold estate in the land the subject of his lease or to enlarge that estate into a fee simple, and an order has been made under section 19(1) permitting the lessor to resume possession of the land, then compensation shall be paid by the immediate lessor to the lessee in accordance with this section.
- (2) The amount of compensation payable to a lessee by virtue of an order made under section 19(1) shall be the amount which, if the said section 19(1) had not been enacted, the land, if sold in the open market by a willing vendor, might at the date when the order is to take effect be expected to realise, on the assumption that the vendor was selling the leasehold estate, and was selling—
- (a) subject to the rights of any person who will on the determination of the lease be entitled to retain possession as against the immediate lessor, but otherwise with vacant possession; and
  - (b) subject to any subsisting rights, equities or obligations which will not terminate with the lease and for which during the currency of the lease the lessee is liable without having a right to be indemnified by the immediate lessor, but otherwise free of incumbrances; and
  - (c) subject to any restriction which would be required (in addition to any imposed by the terms of the lease) to limit the user of the land to that to which it had been put since the commencement of the lease and to preclude the erection on the land of any new dwelling-house or any other building not ancillary to the buildings on the land and used, in whole or in part, as a dwelling-house;
- and the compensation shall be calculated as if the lease had been extended under section 18 but there shall be left out of account any value attaching to the right to acquire the fee simple in the land under this Act.

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- (3) The compensation payable to a lessee under this section shall become due and payable on the occurrence of whichever of the following events is the later, that is to say, the expiration of one month after the amount of the compensation is fixed or on the date on which the lessee's lease terminates either by effluxion of time or by agreement between the parties to it.
- (4) Where compensation is payable to a lessee under this section and his estate in the land comprised in the lease is subject to a mortgage the mortgage shall attach to the compensation and any person who is liable to pay compensation and who has notice of the mortgage shall pay the compensation in accordance with the joint direction of the lessee and the mortgagee or, in default of such direction, in accordance with the directions of the Lands Tribunal.
- (5) Where compensation awarded by the Lands Tribunal under this section is not paid within the time specified in subsection (3) or within such extended time as the Tribunal may allow, the following provisions shall have effect—
- (a) the lessee shall, notwithstanding section 19(4), be entitled to obtain from the lessor an extension of his leasehold estate or to obtain the grant to himself of the fee simple interest therein;
  - (b) the provisions of section 19(1) and (4) shall not apply to the land;
  - (c) the granting of the extension of the lease or of the fee simple shall operate as a discharge of the said award of compensation; and
  - (d) the Tribunal may make an order for the payment by the lessor of such damages as the Tribunal considers proper for the loss which the lessee has suffered as a direct consequence of the lessor having obtained an order permitting him to resume possession of the land.

**F35** functions transf. 1982 NI 6

## **21**<sup>F36</sup> **Application of capital money under Settled Land Acts.**

- (1) Capital money arising under the Settled Land Acts, 1882 to 1890, may be applied—
- (a) in payment of any sum payable to a person in respect of compensation or damages awarded under section 20 and any costs, charges and expenses payable in relation thereto; or
  - (b) in payment of any costs, charges and expenses incurred in or in relation to making or opposing an application to the Lands Tribunal under this Act.
- (2) The payment of compensation or damages awarded under section 20 shall be included among the purposes for which a tenant for life may raise money under section 18 of the Settled Land Act, 1882 .
- (3) Where a person liable to pay compensation under section 20 is a tenant for life or in a fiduciary position he may require the sum payable in respect of such compensation and any damages, costs, charges and expenses payable in relation thereto to be paid out of settled land or out of any capital money held on the same trusts as the settled land.
- (4) In this section “capital money” includes any personal estate held on the same trusts as the land, and “settled land” includes land held on trust for sale.

**F36** functions transf. 1982 NI 6

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**22** <sup>F37</sup> **Right of lessee to continue in occupation.**

Where a lessee, who has the right under section 1 to obtain an extension of his leasehold estate in land or to acquire the fee simple in the land, has served a notice under section 2, the lessee shall after the lease has expired be entitled to hold, as tenant to his lessor, the land demised by the lease until either—

- (a) he is granted an extension of his lease; or
- (b) the fee simple is conveyed to him; or
- (c) the lessor obtains an order under section 19 permitting him to resume possession of the land,

upon the same terms and conditions as those under which he held under the lease.

**F37** functions transf. 1982 NI 6

**23** <sup>F38</sup> **Provisions as to persons under disability etc. who are bound to grant extension of leases.**

Section 5 shall apply to the persons who are required by section 17 to grant or join in granting an extended lease for the purposes of this Act as if the references in that section to persons required by this Act to convey or join in the conveyance of the fee simple in land were references to persons who are required by section 17 to grant or join in granting an extended lease and as if references to the conveying of the fee simple (howsoever expressed) were references to the grant or joining in the grant of an extended lease.

**F38** functions transf. 1982 NI 6

**24** <sup>F39</sup> **Determination of disputes by Lands Tribunal.**

- (1) If any dispute, question or difficulty arises in regard to the acquisition of the fee simple or any other estate in land under this Act, the purchase price thereof, the apportionment of a rent under or for the purposes of this Act or the grant of an extension of a lease under this Act, costs or expenses incurred under this Act, compliance by a person with a provision of this Act or any other matter arising under this Act, any person concerned may apply to the Lands Tribunal to have the matter determined.
- (2) Without prejudice to the generality of subsection (1), the Lands Tribunal may—
  - (a) determine the person, if any, entitled to acquire the fee simple in land under this Act;
  - (b) determine the purchase price to be paid in respect of the acquisition;
  - (c) determine the person or persons entitled to receive the purchase money in respect of the acquisition and the amount which each person is entitled to receive;
  - (d) determine if a person is entitled to have a rent apportioned under section 8;
  - (e) apportion (whether under the said section 8 or otherwise for the purposes of this Act) any rent payable in respect of land part of which is land the fee simple in which is being acquired under this Act;
  - (f) determine the rent payable under an extended lease granted for the purposes of this Act;

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- (g) determine any other matter which the Lands Tribunal is required to determine under any provision of this Act.

**F39** functions transf. 1982 NI 6

## **25 Assistance of Commissioner of Valuation to Lands Tribunal.**

- (1) <sup>F40</sup> Where any proceedings are being carried on before the Lands Tribunal arising out of any matter which the Tribunal is required or empowered to determine under this Act, the Tribunal may cause to be sent to the Commissioner of Valuation a request for a valuation, estimate or statement in respect of any matter relevant to the determination of the purchase price of the fee simple in land under this Act or to the apportionment of a rent under this Act or to the fixing of the rent payable and any other term or condition under a lease extended under this Act and any review of such last-mentioned rent and, where the Tribunal so sends a request to the Commissioner of Valuation, the Tribunal may adjourn the proceedings.
- (2) Upon receipt of a request under this section, the Commissioner of Valuation shall cause such valuation, estimate or statement as is mentioned in the request to be prepared and sent to the Tribunal together with a statement of the fee, calculated in accordance with regulations made by the Ministry of Finance<sup>F41</sup> and Personnel], payable therefor.
- (3) Any party to the proceedings shall be entitled to obtain from the Commissioner of Valuation a copy of a valuation, estimate or statement furnished by the Commissioner of Valuation in pursuance of this section, subject to payment therefor of such fee as the Ministry of Finance<sup>F41</sup> and Personnel] may prescribe.
- (4) <sup>F40</sup> The fee payable under this section for a valuation, estimate or statement furnished by the Commissioner of Valuation for the purposes of this section shall be borne and paid to the Lands Tribunal by such party or parties and in such proportion as it shall direct.
- (5) <sup>F40</sup> Where a request is sent under this section in relation to land to the Commissioner of Valuation, the Lands Tribunal shall, in determining any matter in relation to which it is relevant, have regard to the valuation, estimate or statement furnished by the said Commissioner.

**F40** functions transf. 1982 NI 6

**F41** 1982 NI 6

## **26** <sup>F42</sup> **Provisions as to mortgages.**

- (1) For the purposes of the application of sections 1, 11 and 17 to a person in relation to any land, the existence of a mortgage of the estate of the person in that land shall be disregarded.
- (2) Where—
- (a) either before or after the commencement of this Act, a lessee executes a mortgage by subdemise of the whole or part of the land comprised in his lease, retaining a nominal reversion therein; and
  - (b) either before or after such commencement, the land comprised in the subdemise is sold, whether under a statutory power or any other power of sale, for the enforcement of the mortgage,

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the purchaser shall, for the purposes of this Act, be deemed to have acquired the interest of the lessee in the demised land for the entirety of the unexpired term of the lease, including the period of the nominal reversion.

**F42** functions transf. 1982 NI 6

**[<sup>F43</sup>27 Saving for National Trust.**

<sup>F44</sup>

This Act shall not apply to any land an estate in which is vested inalienably in the National Trust for Places of Historic Interest or Natural Beauty under section 21 of the National Trust Act 1907.]

**F43** 1997 NI 8

**F44** functions transf. 1982 NI 6

**28<sup>F45</sup> Continuance of certain covenants affecting fee simple acquired under Act.**

Where the fee simple in land demised by a lease containing a covenant, condition or agreement which protects or enhances the amenities of any land occupied by the owner of the lessor's estate in the land or relates to the performance of a duty imposed by statute on such owner or to a right of way or other easement over, or appurtenant to, the land demised by the lease or a right of drainage or other right necessary to secure or assist the development of land other than the land demised by the lease is acquired under this Act, the covenant, condition or agreement shall, notwithstanding anything contained in this Act, continue in full force and effect and shall be enforceable, in the case of a covenant, condition or agreement which does not relate to a right of way, or other easement, or right of drainage or other right aforesaid, by such owner or his personal representatives or successors in title as if the acquisition had not occurred and, in the case of a covenant, condition or agreement which does so relate, by any person aggrieved by the breach thereof.

**F45** functions transf. 1982 NI 6

**29<sup>F46</sup> Avoidance of certain contracts.**

- (1) Subject to subsection (2), so much of any contract made after the commencement of this Act as provides that any provision of this Act shall not apply in relation to a person or that the application of any such provision shall be varied, modified or restricted in any way in relation to a person shall be void.
- (2) Nothing in this Act shall prevent a person from giving or accepting, for the purpose of the acquisition of the fee simple or other estate in land under this Act, or the apportionment of a rent under this Act, a lesser estate than a fee simple, or any other estate in land than the estate which a purchaser is, in the absence of any stipulation to the contrary in the contract, entitled to require.

**F46** functions transf. 1982 NI 6

*S. 30 rep. by 1996 NI 5*

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*Changes to legislation: There are currently no known outstanding effects for the Leasehold (Enlargement and Extension) Act (Northern Ireland) 1971. (See end of Document for details)*

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### 31<sup>F47</sup> Offences.

- (1) Any person who fraudulently or by the wilful concealment of material facts induces the Lands Tribunal to do or to refrain from doing anything which the Tribunal is authorised to do under this Act shall, without prejudice to the provisions of the [<sup>F48</sup> Perjury (Northern Ireland) Order 1979 ], be guilty of an offence and shall be liable—
- (a) on summary conviction, to a fine not exceeding [<sup>F49</sup> level 3 on the standard scale] or to imprisonment for a term not exceeding six months or to both such fine and such imprisonment;
  - (b) on indictment, to a fine not exceeding [<sup>F49</sup> an unlimited fine] or to imprisonment for a term not exceeding two years or to both such fine and such imprisonment.
- (2) For the purposes of any proceedings under this section, a certificate under the hand of a member of the Lands Tribunal that, in any proceedings of the Lands Tribunal heard before him (whether sitting alone or otherwise), a statement of material facts as set out in the certificate was made to the Tribunal or that any material facts as set out in the certificate were not disclosed to the Tribunal, shall, until the contrary is shown, be accepted as proof that such statement was made, or, as the case may be, that such facts were not disclosed to the Tribunal.

<b>F47</b>	functions transf. 1982 NI 6
<b>F48</b>	1979 NI 19
<b>F49</b>	1984 NI 3

### 32<sup>F50</sup> Regulations.

The Ministry may make regulations subject to negative resolution prescribing anything which is to be prescribed for the purposes of this Act.

<b>F50</b>	functions transf. 1982 NI 6
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### 33<sup>F51</sup> Interpretation.

In this Act—

“business” includes—

- (a) a trade, profession or employment; and
- (b) any activity carried out by a body of persons whether corporate or unincorporate;

whether or not carried on for gain or reward; but land shall not be deemed to be used for the purpose of business by reason only that the lessee carries on the business of subletting any part of the permanent buildings on the land, whether or not the provision of any services is undertaken in connection with such subletting; [<sup>F52</sup>“capital value” means capital value for the purposes of the Rates (Northern Ireland) Order 1977 and shall be construed in accordance with Article 39 of that Order;]

[<sup>F53</sup>“capital value list” has the meaning given by Article 40(1)(b) of the Rates (Northern Ireland) Order 1977;]

“development” has the meaning assigned to it by section 9<sup>F54</sup> of the Planning (Interim Development) Act (Northern Ireland) 1944 ;

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“fee simple” does not include the estate in land of a person who holds the land under a fee farm grant;

[<sup>F55</sup>“ground rent” means a rent under a lease where—

- (a) the rent was created before 9th September 1951 and does not exceed [<sup>F56</sup>0.01265 per cent. of the capital value] of the land or, in a case where the land [<sup>F57</sup>appears in a NAV list], does not exceed [<sup>F58</sup>one seventy-sixth] of its net annual value;
- (b) the rent was created after 8th September 1951 and does not exceed [<sup>F59</sup>0.04065 of the capital value] of the land or, in a case where the land [<sup>F60</sup>appears in a NAV list], does not exceed [<sup>F58</sup>one thirty-second] of its net annual value,

and for this purpose [<sup>F61</sup> “NAV list”] has the meaning assigned to it by Article [<sup>F62</sup>40(1)(a)] of the Rates (Northern Ireland) Order 1977;]

“immediate lessor” means the person for the time being entitled to the next superior estate in the land held by the lessee;

“interest in land” means any estate in land not being a fee simple;

“Lands Tribunal” means the Lands Tribunal for Northern Ireland;

“lease” means an instrument in writing, whether or not under seal, containing a contract of tenancy in respect of land in consideration of a rent or return, and includes a fee farm grant;

“lessee” means an individual who holds land under a lease and includes the personal representatives and successors in title of a lessee and includes a trustee where a beneficiary under the trust would be a person to whom section 1 applies if he were a lessee;

“lessor” includes the personal representatives and successors in title of a lessor;

“Ministry” means the Ministry of Home Affairs<sup>F63</sup>;

“mortgage” includes any charge on any property for securing money or money's worth; and mortgage money means money, or money's worth, secured by a mortgage; and mortgagor includes any person from time to time deriving title under the original mortgagor, or entitled to redeem a mortgage, according to his estate, interest, or right, in the mortgaged property; and mortgagee includes any person from time to time deriving title under the original mortgagee; and “mortgagor” and “mortgagee” shall be construed accordingly;

“superior lessor” means a person entitled to an estate in land held by a lessee which is superior to the estate of the person from whom the lessee holds the land.

**F51** functions transf. 1982 NI 6

**F52** S. 33: definition of "capital value" inserted (1.4.2007) by [Rates \(Consequential Provisions\) Order \(Northern Ireland\) 2007 \(S.R. 2007/192\)](#), art. 2(1), [Sch. 1 para. 2\(a\)](#)

**F53** S. 33: definition of "capital value list" inserted (1.4.2007) by [Rates \(Consequential Provisions\) Order \(Northern Ireland\) 2007 \(S.R. 2007/192\)](#), art. 2(1), [Sch. 1 para. 2\(a\)](#)

**F54** 1972 NI 17

**F55** SR 1997/144

**F56** Words in s. 33 in sub - paragraph (a) of the definition of "ground rent" substituted (1.4.2007) by [Rates \(Consequential Provisions\) Order \(Northern Ireland\) 2007 \(S.R. 2007/192\)](#), art. 2(1), [Sch. 1 para. 2\(b\)\(i\)\(aa\)](#)

**F57** Words in s. 33 in sub - paragraph (a) of the definition of "ground rent" substituted (1.4.2007) by [Rates \(Consequential Provisions\) Order \(Northern Ireland\) 2007 \(S.R. 2007/192\)](#), art. 2(1), [Sch. 1 para. 2\(b\)\(i\)\(bb\)](#)

**F58** SR 2003/73

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- F59** Words in s. 33 in sub - paragraph (b) of the definition of "ground rent" substituted (1.4.2007) by Rates (Consequential Provisions) Order (Northern Ireland) 2007 (S.R. 2007/192), art. 2(1), **Sch. 1 para. 2(b)(ii)(aa)**
- F60** Words in s. 33 in sub - paragraph (b) of the definition of "ground rent" substituted (1.4.2007) by Rates (Consequential Provisions) Order (Northern Ireland) 2007 (S.R. 2007/192), art. 2(1), **Sch. 1 para. 2(b)(ii)(bb)**
- F61** Words in s. 33 after sub - paragraph (b) of the definition of "ground rent" substituted (1.4.2007) by Rates (Consequential Provisions) Order (Northern Ireland) 2007 (S.R. 2007/192), art. 2(1), **Sch. 1 para. 2(b)(iii)(aa)**
- F62** Words in s. 33 after sub - paragraph (b) of the definition of "ground rent" substituted (1.4.2007) by Rates (Consequential Provisions) Order (Northern Ireland) 2007 (S.R. 2007/192), art. 2(1), **Sch. 1 para. 2(b)(iii)(bb)**
- F63** SRO (NI) 1973/504

### **34** <sup>F64</sup> **Short title and commencement.**

This Act may be cited as the Leasehold (Enlargement and Extension) Act (Northern Ireland) 1971 .... *Commencement* ...

- F64** functions transf. 1982 NI 6



**Changes to legislation:**

There are currently no known outstanding effects for the Leasehold (Enlargement and Extension) Act (Northern Ireland) 1971.