
STATUTORY INSTRUMENTS

1997 No. 1179

The Property (Northern Ireland) Order 1997

PART III

FREEHOLD COVENANTS AND CERTAIN LEASES

Leases

Perpetually renewable leases

36.—(1) This Article applies to—

- (a) a lease for a life or lives renewable for ever;
- (b) a lease for a life or lives with any concurrent or reversionary term of years, renewable for ever;
- (c) a lease for a term of years renewable for ever.

(2) On and after the appointed day, a lease to which this Article applies is incapable of being created at law or in equity.

(3) Any agreement made on or after the appointed day to grant a lease to which this Article applies is void; any instrument made on or after that day which purports to be such a lease is void; and any agreement to assign, or any purported assignment, of such a lease made on or after that day has effect as an agreement to convey, or a conveyance of, a fee simple.

(4) Subject to paragraph (5), where immediately before the appointed day any lease to which this Article applies was subsisting and would have continued to subsist apart from the provisions of this Article and Schedule 2, the estate created by the lease is, on that day, converted by virtue of this paragraph into an estate in fee simple subject to a fee farm rent.

(5) Where a lease coming within paragraph (4) was subject to one or more than one sub-lease (other than a sub-lease by way of mortgage) which also (by virtue of the definition of “lease” in Article 2(2)) comes within that paragraph, the reference in that paragraph to the estate created by the lease is, to the extent of the land which is the subject of the sub-lease, to be construed as a reference to the estate created by the sub-lease (or the more or most subordinate sub-lease, if more than one).

(6) For the purposes of paragraphs (4) and (5), Schedule 2 contains provisions subject to which the estate in fee simple is held and provides for the amount of the fee farm rent; and the other provisions of that Schedule also have effect.

(7) Where immediately before the appointed day an agreement to grant a lease to which this Article applies was subsisting, the agreement continues to have the effect provided for in section 37 of the Renewable Leasehold Conversion Act, notwithstanding the repeal by this Order of that Act, (that is to say, it is deemed to be an agreement for a conveyance of the land concerned at a fee farm rent).

(8) A mere covenant for renewal on the same terms in any lease is not to be taken to require the inclusion of another covenant for renewal in the renewed lease, unless the contrary intention is expressed or implied in the original lease.

(9) For the purposes of this Article a lease is subsisting so long as the rent provided for by it is being paid, notwithstanding that the lease has fallen due for renewal but has not been renewed or that a fine payable on renewal has not been paid; and for this purpose rent is being paid if no rent is in arrear.