



# Leasehold Reform Act 1967

## 1967 CHAPTER 88

### E+W

An Act to enable tenants of houses held on long leases at low rents to acquire the freehold or an extended lease; to apply the Rent Acts to premises held on long leases at a rackrent, and to bring the operation of the Landlord and Tenant Act 1954 into conformity with the Rent Acts as so amended; to make other changes in the law in relation to premises held on long leases, including amendments of the Places of Worship (Enfranchisement) Act 1920; and for purposes connected therewith. [27th October 1967]

#### Modifications etc. (not altering text)

- C1** Act modified by [S.I. 1990/776](#), [arts. 2\(2\)](#), [5\(2\)\(e\)](#)  
Act amended (1.4.1996) by [S.I. 1996/593](#), [reg. 2](#), [Sch. 1](#)  
Act: certain functions transferred (1.7.1999) by [S.I. 1999/672](#), [art. 2](#), [Sch. 1](#)

#### Commencement Information

- II** Act partly in force at Royal Assent see [s. 41\(4\)\(5\)](#).

### PART I E+W

#### ENFRANCHISEMENT AND EXTENSION OF LONG LEASEHOLDS

#### Modifications etc. (not altering text)

- C2** [Pt. I](#) (ss. 1–37) excluded by [Housing Act 1985](#) (c. 68, SIF 61), [ss. 172](#), [173](#)  
**C3** [Pt. I](#) (ss. 1–37) extended by [Housing Act 1985](#) (c. 68, SIF 61), [s. 174](#)  
[Pt. I](#) (ss. 1–37) modified (1.4.1997) by [1985 c. 68](#), [s. 174](#) (as inserted (1.4.1997) by [S.I. 1997/619](#), [reg. 2\(1\)](#), [Sch. 1 para. 29](#))  
**C4** [Pt. I](#) extended by [Land Compensation Act 1973](#) (c. 26), [s. 12\(1\)](#)

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### *Right to enfranchisement or extension*

## **1 Tenants entitled to enfranchisement or extension. E+W**

(1) This Part of this Act shall have effect to confer on a tenant of a leasehold house <sup>F1</sup> . . . a right to acquire on fair terms the freehold or an extended lease of the house and premises where—

[<sup>F2</sup>(a) his tenancy is a long tenancy [<sup>F3</sup>at a low rent] and,—

(i) if the tenancy was entered into before 1st April 1990 [<sup>F4</sup>, or on or after 1st April 1990 in pursuance of a contract made before that date, and the house and premises had a rateable value at the date of commencement of the tenancy or else at any time before 1st April 1990,] subject to subsections (5) and (6) below, the rateable value of the house and premises on the appropriate day was not more than £200 or, if it is in Greater London, than £400; and

(ii) if the tenancy [<sup>F4</sup>does not fall within sub-paragraph (i) above,] on the date the contract for the grant of the tenancy was made or, if there was no such contract, on the date the tenancy was entered into R did not exceed £25,000 under the formula—

$$R = \frac{P \times I}{1 - (1 + I)^{-T}}$$

where—

P is the premium payable as a condition of the grant of the tenancy (and includes a payment of money's worth) or, where no premium is so payable, zero,

I is 0.06, and

T is the term, expressed in years, granted by the tenancy (disregarding any right to terminate the tenancy before the end of the term or to extend the tenancy);

[<sup>F5</sup>(aa) in the case of a right to acquire an extended lease, his long tenancy is a tenancy at a low rent;] and]

(b) at the relevant time (that is to say, at the time when he gives notice in accordance with this Act of his desire to have the freehold or to have an extended lease, as the case may be) he has [<sup>F6</sup>—

(i) in the case of a right to acquire the freehold, been tenant of the house under a long tenancy for the last two years; and

(ii) in the case of a right to acquire an extended lease,] been tenant of the house under a long tenancy at a low rent <sup>F1</sup> . . . for the last [<sup>F7</sup>two years];

and to confer the like right in the other cases for which provision is made in this Part of this Act.

[<sup>F8</sup>(1ZA) Where a house is for the time being let under two or more tenancies, a tenant under any of those tenancies which is superior to that held by any tenant on whom this Part of this Act confers a right does not have any right under this Part of this Act.

(1ZB) Where a flat forming part of a house is let to a person who is a qualifying tenant of the flat for the purposes of Chapter 1 or 2 of Part 1 of the Leasehold Reform, Housing and Urban Development Act 1993 (c. 28), a tenant of the house does not have any

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right under this Part of this Act unless, at the relevant time, he has been occupying the house, or any part of it, as his only or main residence (whether or not he has been using it for other purposes)—

- (a) for the last two years; or
- (b) for periods amounting to two years in the last ten years.]

[<sup>F9</sup>(1ZC) The references in subsection (1)(a) and (b) to a long tenancy do not include a tenancy to which Part 2 of the Landlord and Tenant Act 1954 (business tenancies) applies unless—

- (a) it is granted for a term of years certain exceeding thirty-five years, whether or not it is (or may become) terminable before the end of that term by notice given by or to the tenant or by re-entry, forfeiture or otherwise,
- (b) it is for a term fixed by law under a grant with a covenant or obligation for perpetual renewal, unless it is a tenancy by sub-demise from one which is not a tenancy which falls within any of the paragraphs in this subsection,
- (c) it is a tenancy taking effect under section 149(6) of the Law of Property Act 1925 (c. 20) (leases terminable after a death or marriage [<sup>F10</sup>or the formation of a civil partnership]), or
- (d) it is a tenancy which—
  - (i) is or has been granted for a term of years certain not exceeding thirty-five years, but with a covenant or obligation for renewal without payment of a premium (but not for perpetual renewal), and
  - (ii) is or has been once or more renewed so as to bring to more than thirty-five years the total of the terms granted (including any interval between the end of a tenancy and the grant of a renewal).

(1ZD) Where this Part of this Act applies as if there were a single tenancy of property comprised in two or more separate tenancies, then, if each of the separate tenancies falls within any of the paragraphs of subsection (1ZC) above, that subsection shall apply as if the single tenancy did so.]

[<sup>F11</sup>(1A) The references in [<sup>F12</sup>subsection (1)(a) and (b)] [<sup>F12</sup>subsection (1)] to a long tenancy [<sup>F13</sup>at a low rent] do not include a tenancy excluded from the operation of this Part by section 33A of and Schedule 4A to this Act.]

[<sup>F14</sup>(1B) This Part of this Act shall not have effect to confer any right on the tenant of a house under a tenancy to which Part 2 of the Landlord and Tenant Act 1954 (c. 56) (business tenancies) applies unless, at the relevant time, the tenant has been occupying the house, or any part of it, as his only or main residence (whether or not he has been using it for other purposes)—

- (a) for the last two years; or
- (b) for periods amounting to two years in the last ten years.]

(2) . . . . .

(3) This Part of this Act shall not confer on the tenant of a house any right by reference to his [<sup>F15</sup>being a tenant of it] at any time when—

- (a) it is let to [<sup>F16</sup> . . . him with other land or premises to which it is ancillary; or
- [<sup>F17</sup>(b) it is comprised in—
  - (i) an agricultural holding within the meaning of the Agricultural Holdings Act 1986 held under a tenancy in relation to which that Act applies, or

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(ii) the holding held under a farm business tenancy within the meaning of the Agricultural Tenancies Act 1995]

[<sup>F18</sup>or, in the case of any right to which subsection (3A) below applies, at any time when the tenant's immediate landlord is a charitable housing trust and the house forms part of the housing accommodation provided by the trust in the pursuit of its charitable purposes.]

[<sup>F19</sup>(3A) For the purposes of subsection (3) above this subsection applies as follows—

- (a) where the tenancy was created after the commencement of Chapter III of Part I of the Leasehold Reform, Housing and Urban Development Act 1993, this subsection applies to any right to acquire the freehold of the house and premises; but
- (b) where the tenancy was created before that commencement, this subsection applies only to any such right exercisable by virtue of any one or more of the provisions of sections 1A [<sup>F20</sup>[<sup>F21</sup>, 1AA]] and 1B below;

and in that subsection “charitable housing trust” means a housing trust within the meaning of the Housing Act 1985 which is a charity <sup>F22</sup>... .]

- (4) In subsection (1)(a) above, “the appropriate day”, in relation to any house and premises, means the 23rd March 1965 or such later day as by virtue of [<sup>F23</sup>section 25(3) of the <sup>M1</sup>Rent Act 1977] would be the appropriate day for purposes of that Act in relation to a dwelling house consisting of that house.

[<sup>F24</sup>(4A) Schedule 8 to the <sup>M2</sup>Housing Act 1974 shall have effect to enable a tenant to have the rateable value of the house and premises reduced for purposes of this section in consequence of tenant's improvements.]

[<sup>F25</sup>(5) If, in relation to any house and premises, the appropriate day for the purposes of subsection (1)(a) above falls on or after 1st April 1973 that subsection shall have effect in relation to the house and premises,—

- (a) in a case where the tenancy was created on or before 18th February 1966, as if for the sums of £200 and £400 specified in that subsection there were substituted respectively the sums of £750 and £1,500; and
- (b) in a case where the tenancy was created after 18th February 1966, as if for those sums of £200 and £400 there were substituted respectively the sums of £500 and £1,000.

(6) If, in relation to any house and premises,—

- (a) the appropriate day for the purposes of subsection (1)(a) above falls before 1st April 1973, and
- (b) the rateable value of the house and premises on the appropriate day was more than £200 or, if it was then in Greater London, £400, and
- (c) the tenancy was created on or before 18th February 1966,

subsection (1)(a) above shall have effect in relation to the house and premises as if for the reference to the appropriate day there were substituted a reference to 1st April 1973 and as if for the sums of £200 and £400 specified in that subsection there were substituted respectively the sums of £750 and £1,500.]

[<sup>F26</sup>(7) The Secretary of State may by order replace the amount referred to in subsection (1) (a)(ii) above and the number in the definition of “I” in that subsection by such amount or number as is specified in the order; and such an order shall be made by statutory instrument which shall be subject to annulment in pursuance of a resolution of either House of Parliament.]

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## Textual Amendments

- F1** Words in s. 1(1) repealed (26.7.2002 for E. and 1.1.2003 for W.) by 2002 c. 15, ss. 138(1), 180, **Sch. 14**; S.I. 2002/1912, art. 2(b)(ii), **Sch. 1 Pt. 3** (subject to transitional provisions and savings in Sch. 2 of the commencing S.I.); S.I. 2002/3012, art. 2(b), **Sch. 1 Pt. 3** (subject to transitional provisions and savings in Sch. 2 of the commencing S.I.)
- F2** S. 1(1)(a) substituted by S.I. 1990/434, **reg. 2**, **Sch. para. 5** (as amended by S.I. 1990/701, **reg. 2**)
- F3** Words in s. 1(1)(a) repealed (7.9.2009 for E.) by Housing and Regeneration Act 2008 (c. 17), ss. 300(1)(a), 325(1), **Sch. 16**; S.I. 2009/2096, art. 2(2)(a)(c) (with art. 3(1)(2))
- F4** Words in s. 1(1)(a)(i)(ii) substituted (1.10.1996) by 1996 c. 52, s. 114; S.I. 1996/2212, arts. 1(2), 2(2), **Sch.**
- F5** S. 1(1)(aa) inserted (7.9.2009 for E.) by Housing and Regeneration Act 2008 (c. 17), ss. 300(1)(b), 325(1); S.I. 2009/2096, art. 2(2)(a) (with art. 3(1)(2))
- F6** Words in s. 1(1)(b) inserted (7.9.2009 for E.) by Housing and Regeneration Act 2008 (c. 17), ss. 300(1)(c), 325(1); S.I. 2009/2096, art. 2(2)(a) (with art. 3(1)(2))
- F7** Words in s. 1(1)(b) substituted (26.7.2002 for E. and 1.1.2003 for W.) by 2002 c. 15, s. 139(1); S.I. 2002/1912, **art. 2(b)(i)** (subject to transitional provisions and savings in Sch. 2 of the commencing S.I.); S.I. 2002/3012, **art. 2(b)(i)** (subject to transitional provisions and savings in Sch. 2 of the commencing S.I.)
- F8** S. 1(1ZA)(1ZB) inserted (26.7.2002 for E. and 1.1.2003 for W.) by 2002 c. 15, s. 138(2); S.I. 2002/1912, **art. 2(b)(i)** (subject to transitional provisions and savings in Sch. 2 of the commencing S.I.); S.I. 2002/3012, **art. 2(b)(i)** (subject to transitional provisions and savings in Sch. 2 of the commencing S.I.)
- F9** S. 1(1ZC)(1ZD) inserted (26.7.2002 for E. and 1.1.2003 for W.) by 2002 c. 15, s. 140; S.I. 2002/1912, **art. 2(b)(i)** (subject to transitional provisions and savings in Sch. 2 of the commencing S.I.); S.I. 2002/3012, **art. 2(b)(i)** (subject to transitional provisions and savings in Sch. 2 of the commencing S.I.)
- F10** Words in s. 1(1ZC)(c) inserted (5.12.2005) by Civil Partnership Act 2004 (c. 33), s. 263(2), **Sch. 8 para. 3**; S.I. 2005/3175, art. 2(1), **Sch. 1**
- F11** S. 1(1A) inserted by Housing and Planning Act 1986 (c. 63, SIF 75:1), s. 18, **Sch. 4 para. 3**
- F12** Words in s. 1(1A) substituted (7.9.2009 for E.) by Housing and Regeneration Act 2008 (c. 17), ss. 300(2)(a)(i), 325(1); S.I. 2009/2096, art. 2(2)(a) (with art. 3(1)(2))
- F13** Words in s. 1(1A) repealed (7.9.2009 for E.) by Housing and Regeneration Act 2008 (c. 17), ss. 300(2)(a)(ii), 325(1), **Sch. 16**; S.I. 2009/2096, art. 2(2)(a)(c) (with art. 3(1)(2))
- F14** S. 1(1B) inserted (26.7.2002 for E. and 1.1.2003 for W.) by 2002 c. 15, s. 139(2); S.I. 2002/1912, **art. 2(b)(i)** (subject to transitional provisions and savings in Sch. 2 of the commencing S.I.); S.I. 2002/3012, **art. 2(b)(i)** (subject to transitional provisions and savings in Sch. 2 of the commencing S.I.)
- F15** Words in s. 1(3) substituted (26.7.2002 for E. and 1.1.2003 for W.) by 2002 c. 15, s. 138(3); S.I. 2002/1912, **art. 2(b)(i)** (subject to transitional provisions and savings in Sch. 2 of the commencing S.I.); S.I. 2002/3012, **art. 2(b)(i)** (subject to transitional provisions and savings in Sch. 2 of the commencing S.I.)
- F16** Words in s. 1(3)(a) repealed (26.7.2002 for E. and 1.1.2003 for W.) by 2002 c. 15, s. 180, **Sch. 14**; S.I. 2002/1912, art. 2(b)(ii), **Sch. 1 Pt. 3** (subject to transitional provisions and savings in Sch. 2 of the commencing S.I.); S.I. 2002/3012, art. 2(b)(ii), **Sch. 1 Pt. 3** (subject to transitional provisions and savings in Sch. 2 of the commencing S.I.)
- F17** S. 1(3)(b) substituted (1.9.1995) by 1995 c. 8, ss. 40, 41(2), **Sch. para. 22** (with s. 37)
- F18** Words in s. 1(3) added (1.11.1993) by 1993 c. 28, s. 67(2); S.I. 1993/2134, **art 5(b)** (subject to arts. 4, 5, **Sch. 1 para. 1**)
- F19** S. 1(3A) inserted (1.11.1993) by 1993 c. 28, s. 67(3); S.I. 1993/2134, **art 5(b)** (subject to arts. 4, 5, **Sch. 1 para. 1**)

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- F20** Words in S. 1(3A)(b) inserted (1.4.1997) by 1996 c. 52, ss. 106, **Sch. 9 para. 2(1)(2)**; S.I. 1997/618, **art. 2(1)** (with **Sch.**)
- F21** Words in s. 1(3A)(b) repealed (7.9.2009 for E.) by **Housing and Regeneration Act 2008 (c. 17)**, s. 325(1), **Sch. 16**; S.I. 2009/2096, art. 2(2)(a)(c) (with art. 3(1)(2))
- F22** Words in s. 1(3A) omitted (14.3.2012 immediately before the Charities Act 2011 (c. 25) comes into force) by virtue of **The Charities (Pre-consolidation Amendments) Order 2011 (S.I. 2011/1396)**, art. 1, **Sch. para. 37(1)(2)(a)**
- F23** Words substituted by **Rent Act 1977 (c. 42)**, s. 155(2), **Sch. 23 para. 42**
- F24** S. 1(4A) substituted by **Housing Act 1980 (c. 51)**, **Sch. 21 para. 2**
- F25** S. 1(5)(6) added by **Housing Act 1974 (c. 44)**, s. 118(1)(5)
- F26** S. 1(7) inserted by S.I. 1990/434, reg. 2, **Sch. para. 6**

#### Marginal Citations

- M1** 1977 c. 42.  
**M2** 1974 c. 44.

### [<sup>F27</sup>1A **Right to enfranchisement only in case of houses whose value or rent exceeds limit under s.1 or 4. E+W**

- (1) Where subsection (1) of section 1 above would apply in the case of the tenant of a house but for the fact that the applicable financial limit specified in subsection (1)(a) (i) or (ii) or (as the case may be) subsection (5) or (6) of that section is exceeded, this Part of this Act shall have effect to confer on the tenant the same right to acquire the freehold of the house and premises as would be conferred by subsection (1) of that section if that limit were not exceeded.
- (2) [<sup>F28</sup>Where a tenancy of any property is not a tenancy at a low rent in accordance with section 4(1) below but is a tenancy falling within section 4A(1) below, the tenancy shall nevertheless be treated as a tenancy at a low rent for the purposes of this Part of this Act so far as it has effect for conferring on any person a right to acquire the freehold of a house and premises.]]

#### Textual Amendments

- F27** S. 1A inserted (1.11.1993) by 1993 c. 28, s. 63; S.I. 1993/2134, **art. 5(a)**
- F28** S. 1A(2) repealed (7.9.2009 for E.) by **Housing and Regeneration Act 2008 (c. 17)**, ss. 300(2)(b)(i), 325(1), **Sch. 16**; S.I. 2009/2096, art. 2(2)(a)(c) (with art. 3(1)(2))

### [<sup>F29</sup>1AA **Additional right to enfranchisement only in case of houses whose rent exceeds applicable limit under section 4. E+W**

- [<sup>F30</sup>(1) Where—
- (a) section 1(1) above would apply in the case of the tenant of a house but for the fact that the tenancy is not a tenancy at a low rent, and
- (b) the tenancy <sup>F31</sup> . . . is not an excluded tenancy,
- this Part of this Act shall have effect to confer on the tenant the same right to acquire the freehold of the house and premises as would be conferred by section 1(1) above if it were a tenancy at a low rent.

<sup>F32</sup>(2) . . . . .

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- (3) A tenancy is an excluded tenancy for the purposes of subsection (1) above if—
- (a) the house which the tenant occupies under the tenancy is in an area designated for the purposes of this provision as a rural area by order made by the Secretary of State,
  - (b) the freehold of that house is owned together with adjoining land which is not occupied for residential purposes and has been owned together with such land since [<sup>F33</sup>1st April 1997 (the date on which section 106 of the Housing Act 1996 came into force)], and
  - [<sup>F34</sup>(c) the tenancy either—
    - (i) was granted on or before that date, or
    - (ii) was granted after that date, but on or before the coming into force of section 141 of the Commonhold and Leasehold Reform Act 2002, for a term of years certain not exceeding thirty-five years.]
- (4) Where this Part of this Act applies as if there were a single tenancy of property comprised in two or more separate tenancies, then, if each of the separate tenancies falls within subsection (2) above, this section shall apply as if the single tenancy did so.
- (5) The power to make an order under subsection (3) above shall be exercisable by statutory instrument which shall be subject to annulment in pursuance of a resolution of either House of Parliament.]]

#### Textual Amendments

- F29** S. 1AA inserted (1.4.1997) by 1996 c. 52, s. 106, **Sch. 9 para. 1**; S.I. 1997/618, **art. 2(1)** (with **Sch.**)
- F30** S. 1AA repealed (7.9.2009 for E.) by Housing and Regeneration Act 2008 (c. 17), ss. 300(2)(b)(ii), 325(1), **Sch. 16**; S.I. 2009/2096, art. 2(2)(a)(c) (with art. 3(1)(2))
- F31** Words in s. 1AA(1)(b) repealed (26.7.2002 for E. and 1.1.2003 for W.) by 2002 c. 15, ss. 141(2)(a), 180, **Sch. 14**; S.I. 2002/1912, art. 2(b), **Sch. 1 Pt. 3** (subject to transitional provisions and savings in Sch. 2 of the commencing S.I.); S.I. 2002/3012, art. 2(b), **Sch. 1 Pt. 3** (subject to transitional provisions and savings in Sch. 2 of the commencing S.I.)
- F32** S. 1AA(2) repealed (26.7.2002 for E. and 1.1.2003 for W.) by 2002 c. 15, ss. 141(2)(b), 180, **Sch. 14**; S.I. 2002/1912, art. 2(b), **Sch. 1 Pt. 3** (subject to transitional provisions and savings in Sch. 2 of the commencing S.I.); S.I. 2002/3012, art. 2(b), **Sch. 1 Pt. 3** (subject to transitional provisions and savings in Sch. 2 of the commencing S.I.)
- F33** Words in s. 1AA(3)(b) substituted (26.7.2002 for E. and 1.1.2003 for W.) by 2002 c. 15, s. 141(3)(a); S.I. 2002/1912, **art. 2(b)(i)** (subject to transitional provisions and savings in Sch. 2 of the commencing S.I.); S.I. 2002/3012, **art. 2(b)(i)** (subject to transitional provisions and savings in Sch. 2 of the commencing S.I.)
- F34** S. 1AA(3)(c) substituted (26.7.2002 for E. and 1.1.2003 for W.) by 2002 c. 15, s. 141(3)(b); S.I. 2002/1912, **art. 2(b)(i)** (subject to transitional provisions and savings in Sch. 2 of the commencing S.I.); S.I. 2002/3012, **art. 2(b)(i)** (subject to transitional provisions and savings in Sch. 2 of the commencing S.I.)

#### [1B] <sup>F35</sup>Right to enfranchisement only in case of certain tenancies terminable after death or marriage. **E+W**

Where a tenancy granted so as to become terminable by notice after [<sup>F36</sup>a death, a marriage or the formation of a civil partnership] —

- (a) is (apart from this section) a long tenancy in accordance with section 3(1) below, but



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(b) was granted before 18th April 1980 or in pursuance of a contract entered into before that date,

then (notwithstanding section 3(1)) the tenancy shall be a long tenancy for the purposes of this Part of this Act only so far as this Part has effect for conferring on any person a right to acquire the freehold of a house and premises.]

#### Textual Amendments

**F35** S. 1B inserted (1.11.1993) by 1993 c. 28, s. 64(1); S.I. 1993/2134, art 5(a)

**F36** Words in s. 1B substituted (5.12.2005) by Civil Partnership Act 2004 (c. 33), s. 263(2), Sch. 8 para. 4; S.I. 2005/3175, art. 2(1), Sch. 1

## 2 Meaning of “house” and “houses and premises”, and adjustment of boundary. **E+W**

- (1) For purposes of this Part of this Act, “house” includes any building designed or adapted for living in and reasonably so called, notwithstanding that the building is not structurally detached, or was or is not solely designed or adapted for living in, or is divided horizontally into flats or maisonettes; and—
  - (a) where a building is divided horizontally, the flats or other units into which it is so divided are not separate “houses”, though the building as a whole may be; and
  - (b) where a building is divided vertically the building as a whole is not a “house” though any of the units into which it is divided may be.
- (2) References in this Part of this Act to a house do not apply to a house which is not structurally detached and of which a material part lies above or below a part of the structure not comprised in the house.
- (3) Subject to the following provisions of this section, where in relation to a house let to <sup>F37</sup> . . . a tenant reference is made in this Part of this Act to the house and premises, the reference to premises is to be taken as referring to any garage, outhouse, garden, yard and appurtenances which at the relevant time are let to him with the house <sup>F37</sup> . . .
- (4) In relation to the exercise by a tenant of any right conferred by this Part of this Act there shall be treated as included in the house and premises any other premises let with the house and premises but not at the relevant time [<sup>F38</sup>subject to a tenancy vested in him](whether in consequence of an assignment of the term therein <sup>F37</sup> . . . or otherwise), if—
  - (a) the landlord at the relevant time has an interest in the other premises and, not later than two months after the relevant time, gives to the tenant written notice objecting to the further severance of them from the house and premises; and
  - (b) either the tenant agrees to their inclusion with the house and premises or the court is satisfied that it would be unreasonable to require the landlord to retain them without the house and premises.
- (5) In relation to the exercise by a tenant of any right conferred by this Part of this Act there shall be treated as not included in the house and premises any part of them which lies above or below other premises (not consisting only of underlying mines or minerals), if—
  - (a) the landlord at the relevant time has an interest in the other premises and, not later than two months after the relevant time, gives to the tenant written



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- notice objecting to the further severance from them of that part of the house and premises; and
- (b) either the tenant agrees to the exclusion of that part of the house and premises or the court is satisfied that any hardship or inconvenience likely to result to the tenant from the exclusion, when account is taken of anything that can be done to mitigate its effects and of any undertaking of the landlord to take steps to mitigate them, is outweighed by the difficulties involved in the further severance from the other premises and any hardship or inconvenience likely to result from that severance to persons interested in those premises.
- (6) The rights conferred on a tenant by this Part of this Act in relation to any house and premises shall not extend to underlying minerals comprised in the tenancy if the landlord requires that the minerals be excepted, and if proper provision is made for the support of the house and premises as they have been enjoyed during the tenancy and in accordance with its terms.
- (7) Where by virtue of subsection (4) above a tenant of a house acquiring the freehold or an extended lease is required to include premises of which the tenancy is not vested in him, this Part of this Act shall apply for the purpose as if in the case of those premises a tenancy on identical terms were vested in him and the holder of the actual tenancy were a sub-tenant; and where by virtue of subsection (5) or (6) above a tenant of a house acquiring the freehold or an extended lease is required to exclude property of which the tenancy is vested in him, then unless the landlord and the tenant otherwise agree or the court for the protection of either of them from hardship or inconvenience otherwise orders, the grant to the tenant shall operate as a surrender of the tenancy in that property and the provision to be made by the grant shall be determined as if the surrender had taken place before the relevant time.

#### Textual Amendments

- F37** Words in s. 2(3)(4) repealed (26.7.2002 for E. and 1.1.2003 for W.) by 2002 c. 15, s. 180, Sch. 14; S.I. 2002/1912, art. 2(b)(ii), Sch. 1 Pt. 3 (subject to transitional provisions and savings in Sch. 2 of the commencing S.I.); S.I. 2002/3012, art. 2(b)(ii), Sch. 1 Pt. 3 (subject to transitional provisions and savings in Sch. 2 of the commencing S.I.)
- F38** Words in s. 2(4) substituted (26.7.2002 for E. and 1.1.2003 for W.) by 2002 c. 15, s. 138(4), S.I. 2002/1912, art. 2(b)(i) (subject to transitional provisions and savings in Sch. 2 of the commencing S.I.); S.I. 2002/3012, art. 2(b)(i) (subject to transitional provisions and savings in Sch. 2 of the commencing S.I.)

### 3 Meaning of “long tenancy”. **E+W**

- (1) In this Part of this Act “long tenancy” means, subject to the provisions of this section, a tenancy granted for a term of years certain exceeding twenty-one years, whether or not the tenancy is (or may become) terminable before the end of that term by notice given by or to the tenant or by re-entry, forfeiture or otherwise, and includes [<sup>F39</sup>both a tenancy taking effect under section 149(6) of the Law of Property Act 1925 (leases terminable after a death or marriage [<sup>F40</sup>or the formation of a civil partnership] ) and] a tenancy for a term fixed by law under a grant with a covenant or obligation for perpetual renewal unless it is a tenancy by sub-demise from one which is not a long tenancy:

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Provided that a tenancy granted so as to become terminable by notice after <sup>F41</sup>a death, a marriage or the formation of a civil partnership] is not to be treated as a long tenancy <sup>F42</sup>if—

- (a) the notice is capable of being given at any time after the death or marriage of <sup>F43</sup>, or the formation of a civil partnership by,] the tenant;
  - (b) the length of the notice is not more than three months; and
  - (c) the terms of the tenancy preclude both—
    - (i) its assignment otherwise than by virtue of section 92 of the Housing Act 1985 (assignments by way of exchange), and
    - (ii) the sub-letting of the whole of the premises comprised in it.]
- (2) Where the tenant of any property under a long tenancy at a low rent <sup>F44</sup>(other than a lease excluded from the operation of this Part by section 33A of and Schedule 4A to this Act)] , on the coming to an end of that tenancy, becomes or has become tenant of the property or part of it under another tenancy (whether by express grant or by implication of law), then the later tenancy shall be deemed for the purposes of this Part of this Act, including any further application of this subsection, to be a long tenancy irrespective of its terms.
- (3) Where the tenant of any property under a long tenancy, on the coming to an end of that tenancy, becomes or has become tenant of the property or part of it under another long tenancy, then in relation to the property or that part of it this Part of this Act <sup>F45</sup>. . . shall apply as if there had been a single tenancy granted for a term beginning at the same time as the term under the earlier tenancy and expiring at the same time as the term under the later tenancy.
- (4) Where a tenancy is or has been granted for a term of years certain not exceeding twenty-one years, but with a covenant or obligation for renewal without payment of a premium (but not for perpetual renewal), and the tenancy is or has been once or more renewed so as to bring to more than twenty-one years the total of the terms granted (including any interval between the end of a tenancy and the grant of a renewal), then this Part of this Act shall apply as it would apply if the term originally granted had been one exceeding twenty-one years.
- (5) References in this Part of this Act to a long tenancy include any period during which the tenancy is or was continued under Part I or II of the <sup>M3</sup>Landlord and Tenant Act 1954 <sup>F46</sup>under Schedule 10 to the Local Government and Housing Act 1989] or under the <sup>M4</sup>Leasehold Property (Temporary Provisions) Act 1951.
- (6) Where at any time there are separate tenancies, with the same landlord and the same tenant, of two or more parts of a house, or of a house or part of it and land or other premises occupied therewith, then in relation to the property comprised in such of those tenancies as are long tenancies this Part of this Act shall apply as it would if at that time there were a single tenancy of that property and the tenancy were a long tenancy, and for that purpose references in this Part of this Act to the commencement of the term or to the term date shall, if the separate tenancies commenced at different dates or have different term dates, have effect as references to the commencement or term date, as the case may be, of the tenancy comprising the house (or the earliest commencement or earliest term date of the tenancies comprising it):

Provided that this subsection shall have effect subject to the operation of subsections (2) to (5) above in relation to any of the separate tenancies.

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#### Textual Amendments

- F39** Words in s. 3(1) inserted (1.11.1993) by 1993 c. 28, s. 64(2)(a); S.I. 1993/2134, art. 5(a)
- F40** Words in s. 3(1) inserted (5.12.2005) by Civil Partnership Act 2004 (c. 33), s. 263(2), Sch. 8 para. 5(2); S.I. 2005/3175, art. 2(1), Sch. 1
- F41** Words in s. 3(1) substituted (5.12.2005) by Civil Partnership Act 2004 (c. 33), s. 263(2), Sch. 8 para. 5(3)(a); S.I. 2005/3175, art. 2(1), Sch. 1
- F42** Word and 3(1)(a)-(c) substituted (1.11.1993) by 1993 c. 28, s. 64(2)(b); S.I. 1993/2134, art. 5(a)
- F43** Words in s. 3(1) inserted (5.12.2005) by Civil Partnership Act 2004 (c. 33), s. 263(2), Sch. 8 para. 5(3)(b); S.I. 2005/3175, art. 2(1), Sch. 1
- F44** Words inserted by Housing and Planning Act 1986 (c. 63, SIF 75:1), s. 18, Sch. 4 para. 4
- F45** Words in s. 3(3) repealed (26.7.2002 for E. and 1.1.2003 for W.) by 2002 c. 15, s. 180, Sch. 14; S.I. 2002/1912, art. 2(b)(ii), Sch. 1 Pt. 3 (subject to transitional provisions and savings in Sch. 2 of the commencing S.I.); S.I. 2002/3012, art. 2(b)(ii), Sch. 1 Pt. 3 (subject to transitional provisions and savings in Sch. 2 of the commencing S.I.)
- F46** Words inserted by Local Government and Housing Act 1989 (c. 42, SIF 75:1), s. 194(1), Sch. 11 para. 8

#### Marginal Citations

- M3** 1954 c. 56.  
**M4** 1951 c. 38.

## 4 Meaning of “low rent”. **E+W**

- (1) For purposes of this Part of this Act a tenancy of any property is a tenancy at a low rent at any time when rent is not payable under the tenancy in respect of the property at a yearly rate
- <sup>[F47]</sup>(i) if the tenancy was entered into before 1st April 1990 <sup>[F48]</sup>, or on or after 1st April 1990 in pursuance of a contract made before that date, and the property had a rateable value other than nil at the date of the commencement of the tenancy or else at any time before 1st April 1990,] equal to or more than two-thirds of the rateable value of the property on the appropriate day or, if later, the first day of the term
- <sup>[F49]</sup>(ii) if the tenancy <sup>[F50]</sup>does not fall within paragraph (i) above,] more than £1,000 if the property is in Greater London and £250 if the property is elsewhere]:

Provided that a tenancy granted between the end of August 1939 and the beginning of April 1963 otherwise than by way of building lease (whether or not it is, by virtue of section 3(3) above, to be treated for other purposes as forming a single tenancy with a previous tenancy) shall not be regarded as a tenancy at a low rent if at the commencement of the tenancy the rent payable under the tenancy exceeded two-thirds of the letting value of the property (on the same terms).

For the purposes of this subsection—

- (a) “appropriate day” means the 23rd March 1965 or such later day as by virtue of <sup>[F51]</sup>section 25(3) of the <sup>M5</sup>Rent Act 1977] would be the appropriate day for purposes of that Act in relation to a dwelling-house consisting of the house in question <sup>[F52]</sup>if the reference in paragraph (a) of that provision to a rateable value were to a rateable value other than nil]; and
- (b) “rent” means rent reserved as such, and there shall be disregarded any part of the rent expressed to be payable in consideration of services to be provided, or of

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- repairs, maintenance or insurance to be effected by the landlord, or to be payable in respect of the cost thereof to the landlord or a superior landlord; and
- (c) there shall be disregarded any term of the tenancy providing for suspension or reduction of rent in the event of damage to property demised, or for any penal addition to the rent in the event of a contravention of or non-compliance with the terms of the tenancy or an agreement collateral thereto; and
- (d) “building lease” means a lease granted in pursuance or in consideration of an agreement for the erection or the substantial re-building or reconstruction of the whole or part of the house in question or a building comprising it.
- (2) Where on a claim by the tenant of a house to exercise any right conferred by this Part of this Act a question arises under section 1(1) above whether his tenancy of the house is or was at any time a tenancy at a low rent, the question shall be determined by reference to the rent and rateable value of the house and premises as a whole, and in relation to a time before the relevant time shall be so determined whether or not the property then occupied with the house or any part of it was the same in all respects as that comprised in the house and premises for purposes of the claim; but, in a case where the tenancy derives (in accordance with section 3(6) above) from more than one separate tenancy, the proviso to subsection (1) above shall have effect if, but only if, it applies to one of the separate tenancies which comprises the house or part of it.
- (3) Where on a claim by the tenant of a house to exercise any right conferred by this Part of this Act a question arises under section 3(2) above whether a tenancy is or was a long tenancy by reason of a previous tenancy having been a long tenancy at a low rent, the question whether the previous tenancy was one at a low rent shall be determined in accordance with subsection (2) above as if it were a question arising under section 1(1), and shall be so determined by reference to the rent and rateable value of the house and premises or the part included in the previous tenancy, exclusive of any other land or premises so included:
- Provided that where an apportionment of rent or rateable value is required because the previous tenancy did not include the whole of the house and premises or included other property, the apportionment shall be made as at the end of the previous tenancy except in so far as, in the case of rent, an apportionment falls to be made at an earlier date under subsection (6) below.
- (4) For purposes of subsection (2) or (3) above a house and premises shall be taken as not including any premises which are to be or may be included under section 2(4) above in giving effect to the tenant’s claim, and as including any part which is to be or may be excluded under section 2(5) or (6).
- (5) Where on a claim by the tenant of a house to exercise any right conferred by this Part of this Act a question arises whether a tenancy granted as mentioned in the proviso to subsection (1) above is or was at any time a tenancy at a low rent, it shall be presumed until the contrary is shown that the letting value referred to in that proviso was such that the proviso does not apply.
- (6) Any entire rent payable at any time in respect of both a house and premises or part thereof and of property not included in the house and premises shall for purposes of this section be apportioned as may be just according to the circumstances existing at the date of the severance giving rise to the apportionment, and references in this section to the rent of a house and premises or of part thereof shall be construed accordingly.
- [<sup>F53</sup>(7) Section 1(7) above applies to any amount referred to in subsection (1)(ii) above as it applies to the amount referred to in subsection (1)(a)(ii) of that section.]

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#### Textual Amendments

- F47** Words inserted by S.I. 1990/434, reg. 2, **Sch. para. 7(a)**
- F48** Words in s. 4(1)(i) substituted (1.10.1996) by 1996 c. 52, s. 105(1)(a); S.I. 1996/2212, **arts. 1(2), 2(2)** (with Sch.)
- F49** S. 4(1)(ii) inserted by S.I. 1990/434, reg. 2, **Sch. para. 7(b)**
- F50** Words in s. 4(1)(ii) substituted (1.10.1996) by 1996 c. 52, s. 105(1)(b); S.I. 1996/2212, **arts. 1(2), 2(2)** (with Sch.)
- F51** Words substituted by Rent Act 1977 (c. 42), s. 155(2), **Sch. 23 para. 42**
- F52** S. 4(1)(a): words in definition of “appropriate day” inserted (1.10.1996) by 1996 c. 52, s. 105(1)(c); S.I. 1996/2212, **arts. 1(2), 2(2)** (with Sch.)
- F53** S. 4(7) inserted by S.I. 1990/434, reg. 2, **Sch. para. 8**

#### Modifications etc. (not altering text)

- C5** S. 4(1) (proviso) applied (1.11.1993) by 1993 c. 28, s. 8(3); S.I. 1993/2134, **art. 5(a)**

#### Marginal Citations

- M5** 1977 c. 42.

#### [<sup>F54</sup>4A Alternative rent limits for purposes of section 1A(2). **E+W**

- [<sup>F55</sup>(1) For the purposes of section 1A(2) above a tenancy of any property falls within this subsection if either no rent was payable under it in respect of the property during the initial year or the aggregate amount of rent so payable during that year did not exceed the following amount, namely—
- (a) where the tenancy was entered into before 1st April 1963, two-thirds of the letting value of the property (on the same terms) on the date of the commencement of the tenancy;
  - (b) where—
    - (i) the tenancy was entered into either on or after 1st April 1963 but before 1st April 1990, or on or after 1st April 1990 in pursuance of a contract made before that date, and
    - [<sup>F56</sup>(ii) the property had a rateable value other than nil at the date of commencement of the tenancy or else at any time before 1st April 1990,]two-thirds of the rateable value of the property on the relevant date; or
  - (c) in any other case, £1,000 if the property is in Greater London or £250 if elsewhere.
- (2) For the purposes of subsection (1) above—
- (a) “the initial year”, in relation to any tenancy, means the period of one year beginning with the date of the commencement of the tenancy;
  - [<sup>F57</sup>(b) “the relevant date” means the date of the commencement of the tenancy or, if the property did not have a rateable value, or had a rateable value of nil, on that date, the date on which it first had a rateable value other than nil;]
  - (c) paragraphs (b) and (c) of section 4(1) above shall apply as they apply for the purposes of section 4(1);

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and it is hereby declared that in subsection (1) above the reference to the letting value of any property is to be construed in like manner as the reference in similar terms which appears in the proviso to section 4(1) above.

- (3) Section 1(7) above applies to any amount referred to in subsection (1)(c) above as it applies to the amount referred to in subsection (1)(a)(ii) of that section.]]

#### Textual Amendments

- F54** S. 4A inserted (1.11.1993) by 1993 c. 28, s. 65; S.I. 1993/2134, art. 5(a)
- F55** S. 4A repealed (7.9.2009 for E.) by Housing and Regeneration Act 2008 (c. 17), ss. 300(2)(b)(iii), 325(1), Sch. 16; S.I. 2009/2096, art. 2(2)(a)(c) (with art. 3(1)(2))
- F56** S. 4A(1)(b)(ii) substituted (1.10.1996) by 1996 c. 52, s. 105(2)(a); S.I. 1996/2212, arts. 1(2), 2(2) (with Sch.)
- F57** S. 4A(2)(b) substituted (1.10.1996) by 1996 c. 52, s. 105(2)(b); S.I. 1996/2212, arts. 1(2), 2(2) (with Sch.)

## 5 General provisions as to claims to enfranchisement or extension. **E+W**

- (1) Where under this Part of this Act a tenant of a house has the right to acquire the freehold or an extended lease and gives notice of his desire to have it, the rights and obligations of the landlord and the tenant arising from the notice shall inure to the benefit of and be enforceable against them, their executors, administrators and assigns to the like extent (but no further) as rights and obligations arising under a contract for a sale or lease freely entered into between the landlord and tenant; and accordingly, in relation to matters arising out of any such notice, references in this Part of this Act to the tenant and the landlord shall, in so far as the context permits, include their respective executors, administrators and assigns.
- (2) Notwithstanding anything in subsection (1) above, the rights and obligations there referred to of a tenant shall be assignable with, but not capable of subsisting apart from, the tenancy of the entire house and premises; and if the tenancy is assigned without the benefit of the notice, or if the tenancy of one part of the house and premises is assigned to or vests in any person without the tenancy of another part, the notice shall accordingly cease to have effect, and the tenant shall be liable to make such compensation as may be just to the landlord in respect of the interference (if any) by the notice with the exercise by the landlord of his power to dispose of or deal with the house and premises or any neighbouring property.
- (3) In the event of any default by the landlord or the tenant in carrying out the obligations arising from any such notice, the other of them shall have the like rights and remedies as in the case of a contract freely entered into.
- (4) The provisions of Schedule 1 to this Act shall have effect in relation to the operation of this Part of this Act where a person gives notice of his desire to have the freehold or an extended lease of a house and premises, and either he does so in respect of a sub-tenancy or there is a tenancy reversionary on his tenancy; but any such notice given in respect of a tenancy granted by sub-demise out of a superior tenancy other than a long tenancy at a low rent shall be of no effect if the grant was made in breach of the terms of the superior tenancy and there has been no waiver of the breach by the superior landlord.

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- (5) No lease shall be registrable under [<sup>F58</sup>the <sup>M6</sup>Land Charges Act 1972] or be deemed to be an estate contract within the meaning of that Act by reason of the rights conferred on the tenant by this Part of this Act to acquire the freehold or an extended lease of property thereby demised, nor shall any right of a tenant arising from a notice under this Act of his desire to have the freehold or to have an extended lease be [<sup>F59</sup>regarded for the purposes of the Land Registration Act 2002 as an interest falling within any of the paragraphs of Schedule 1 or 3 to that Act] ; but any such notice shall be registrable under [<sup>F60</sup>the <sup>M7</sup>Land Charges Act 1972] or may be the subject of a notice [<sup>F61</sup>under the Land Registration Act 2002] , as if it were an estate contract.
- (6) A notice of a person's desire to have the freehold or an extended lease of a house and premises under this Part of this Act—
- shall be of no effect if at the relevant time any person or body of persons who has or have been, or could be, authorised to acquire the whole or part of the house and premises compulsorily for any purpose has or have, with a view to its acquisition for that purpose, served notice to treat on the landlord or on the tenant, or entered into a contract for the purchase of the interest of either of them, and the notice to treat or contract remains in force; and
  - shall cease to have effect if before the completion of the conveyance in pursuance of the tenant's notice any such person or body of persons serves notice to treat as aforesaid;

but where a tenant's notice ceases to have effect by reason of a notice to treat served on him or on the landlord, then on the occasion of the compulsory acquisition in question the compensation payable in respect of any interest in the house and premises (whether or not the one to which that notice to treat relates) shall be determined on the basis of the value of the interest subject to and with the benefit of the rights and obligations arising from the tenant's notice and affecting that interest.

- (7) Where any such notice given by a tenant entitled to acquire the freehold or an extended lease has effect, then (without prejudice to the general law as to the frustration of contracts) the landlord and all other persons shall be discharged from the further performance, so far as relates to the disposal in any manner of the landlord's interest in the house and premises or any part thereof, of any contract previously entered into and not providing for the eventuality of such a notice (including any such contract made in pursuance of the order of any court):

Provided that, in the case of a notice of the tenant's desire to have an extended lease, this subsection shall not apply to discharge a person from performance of a contract unless the contract was entered into on the basis, common to both parties, that vacant possession of the house and premises or part thereof would or might be obtainable on the termination of the existing tenancy.

- (8) A tenant's notice of his desire to have an extended lease under this Part of this Act shall cease to have effect if afterwards (being entitled to do so) he gives notice of his desire to have the freehold.

#### Textual Amendments

**F58** Words substituted by virtue of [Land Charges Act 1972 \(c. 61\), s. 18\(6\)](#)

**F59** Words in s. 5(5) substituted (13.10.2003) by [Land Registration Act 2002 \(c. 9\), s. 136\(2\), Sch. 11 para. 8\(2\)\(a\)](#) (with s. 129); S.I. 2003/1725, art. 2(1)

**F60** Words substituted by virtue of [Land Charges Act 1972 \(c. 61\), s. 18\(6\)](#)



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**F61** Words in s. 5(5) substituted (13.10.2003) by Land Registration Act 2002 (c. 9), s. 136(2), **Sch. 11 para. 8(2)(b)** (with s. 129); S.I. 2003/1725, art. 2(1)

#### Marginal Citations

**M6** 1972 c. 61.

**M7** 1972 c. 61.

## 6 Rights of trustees. **E+W**

- (1) [<sup>F62</sup>A tenant of a house shall for purposes of this Part of this Act be treated as having been a tenant of it at any earlier time] if at that time—
- (a) the tenancy was settled land for purposes of the <sup>M8</sup>Settled Land Act 1925, and he was sole tenant for life within the meaning of that Act; or
  - (b) the tenancy was vested in trustees and he, as a person beneficially interested (whether directly or derivatively) under the trusts, was entitled or permitted to occupy the house by reason of that interest.

References in this section to trustees include persons holding on [<sup>F63</sup>a trust arising under section 34 or section 36] of the <sup>M9</sup>Law of Property Act 1925 in cases of joint ownership or ownership in common.

- (2) Where a tenancy of a house is settled land for purposes of the Settled Land Act 1925, a sole tenant for life within the meaning of that Act shall have the same rights under this Part of this Act <sup>F64</sup>. . . as if the tenancy of it belonged to him absolutely, but without prejudice to his position under the settlement as a trustee for all parties entitled under the settlement; and—
- (a) the powers under that Act of a tenant for life shall include power to accept an extended lease under this Part of this Act; and
  - (b) an extended lease granted under this Part of this Act to a tenant for life or statutory owner shall be treated as a subsidiary vesting deed in accordance with section 53(2) of that Act.
- (3) Where a tenancy of a house is vested in trustees (other than a sole tenant for life within the meaning of the Settled Land Act 1925), and a person beneficially interested (whether directly or derivatively) under the trusts is entitled or permitted by reason of his interest to occupy the house, then the trustees shall have the like rights under this Part of this Act in respect of his occupation as he would have if he were the tenant occupying in right of the tenancy.
- (4) Without prejudice to any powers exercisable under the Settled Land Act 1925 by tenants for life or statutory owners within the meaning of that Act, where a tenancy of a house is vested in trustees, then unless the instrument regulating the trusts (being made after the passing of this Act) contains an explicit direction to the contrary, the powers of the trustees under that instrument shall include power, with the like consent or on the like direction (if any) as may be required for the exercise of their powers (or ordinary powers) of investment, to acquire and retain the freehold or an extended lease under this Part of this Act.
- (5) The purposes authorised for the application of capital money by section 73 of the <sup>M10</sup>Settled Land Act 1925, . . . and the purposes authorised by section 71 of the Settled Land Act 1925. . . as purposes for which moneys may be raised by mortgage, shall include the payment of any expenses incurred by a tenant for life <sup>F64</sup>. . . in or in

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connection with proceedings taken by him<sup>F64</sup>. . . by virtue of subsection (2) or (3) above.

#### Textual Amendments

- F62** Words in s. 6(1) substituted (26.7.2002 E. and 1.1.2003 W.) by 2002 c. 15, s. 138(5); S.I. 2002/1912, art. 2(b)(i) (subject to transitional provision in Sch. 2 of the commencing S.I.); S.I. 2002/3012, art. 2(b)(i) (subject to transitional provision in Sch. 2 of the commencing S.I.)
- F63** Words in s. 6(1) substituted (1.1.1997) by 1996 c. 47, s. 25(1), Sch. 3 para. 10(a) (with ss. 24(2), 25(4)(5)); S.I. 1996/2974, art. 2
- F64** Words in s. 6(2)(5) repealed (26.7.2002 E. and 1.1.2003 W.) by 2002 c. 15, s. 180, Sch. 14; S.I. 2002/1912, art. 2(b)(ii), Sch. 1 Pt. 3 (subject to transitional provision in Sch. 2 of the commencing S.I.); S.I. 2002/3012, art. 2(b)(ii), Sch. 1 Pt. 3 (subject to transitional provision in Sch. 2 of the commencing S.I.)

#### Marginal Citations

- M8** 1925 c. 18.  
**M9** 1925 c. 20.  
**M10** 1925 c. 18.

### [<sup>F65</sup>6A Rights of personal representatives **E+W**

- (1) Where a tenant of a house dies and, immediately before his death, he had under this Part of this Act—
- the right to acquire the freehold, or
  - the right to an extended lease,
- the right is exercisable by his personal representatives while the tenancy is vested in them (but subject to subsection (2) below); and, accordingly, in such a case references in this Part of this Act to the tenant shall, in so far as the context permits, be to the personal representatives.
- (2) The personal representatives of a tenant may not give notice of their desire to have the freehold or an extended lease by virtue of subsection (1) above later than two years after the grant of probate or letters of administration.]

#### Textual Amendments

- F65** S. 6A inserted (26.7.2002 for E. and 1.1.2003 for W.) by 2002 c. 15, s. 142(1); S.I. 2002/1912, art. 2(a) (subject to transitional provisions and savings in Sch. 2 of the commencing S.I.); S.I. 2002/3012, art. 2(a) (subject to transitional provisions and savings in Sch. 2 of the commencing S.I.)

### 7 Rights of members of family succeeding to tenancy on death. **E+W**

- (1) Where the tenant of a house dies<sup>F66</sup>. . . and on his death a member of his family resident in the house becomes tenant of it under the same tenancy, then for the purposes of any claim by that member of the family to acquire the freehold or an extended lease under this Part of this Act he shall be treated as having been the tenant<sup>F66</sup>. . . during any period when—
- he was resident in the house, and it was his only or main place of residence;
- <sup>F66</sup>and

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<sup>F66</sup>(b) .....

(2) For purposes of this section—

- (a) a member of a tenant’s family on whom the tenancy devolves on the tenant’s death by virtue of a testamentary disposition or the law of intestate succession shall, on the tenancy vesting in him, be treated as having become tenant on the death; and
- (b) a member of a tenant’s family who, on the tenant’s death, acquires the tenancy by the appropriation of it in or towards satisfaction of any legacy, share in residue, debt or other share in or claim against the tenant’s estate, or by the purchase of it on a sale made by the tenant’s personal representatives in the administration of the estate, shall be treated as a person on whom the tenancy devolved by direct bequest; and
- (c) a person’s interest in a tenancy as personal representative of a deceased tenant shall be disregarded, but references in paragraphs (a) and (b) above to a tenancy vesting in, or being acquired by, a member of a tenant’s family shall apply also where, after the death of a member of the family, the tenancy vests in or is acquired by the personal representatives of that member.

(3) Where a tenancy of a house is settled land for purposes of the Settled Land Act 1925, and on the death of a tenant for life within the meaning of that Act a member of his family resident [<sup>F67</sup>in the house] becomes entitled to the tenancy in accordance with the settlement or by any appropriation by or purchase from the personal representatives in respect of the settled land, this section shall apply as if the tenancy had belonged to the tenant for life absolutely and the trusts of the settlement taking effect after his death had been trusts of his will.

(4) Where in a case not falling within subsection (3) above a tenancy of a house is held on trust and—

- (a) a person beneficially interested (whether directly or derivatively) under the trust is entitled or permitted by reason of his interest to occupy the house; and
- (b) on his death a member of his family resident [<sup>F67</sup>in the house] becomes tenant of the house in accordance with the terms of the trust or by any appropriation by or purchase from the trustees;

then this section shall apply as if the deceased person <sup>F66</sup>... had been tenant of it <sup>F66</sup>... and as if after his death the trustees had held and dealt with the tenancy as his executors (the remaining trusts being trusts of his will).

(5) Subsections (3) and (4) above shall apply, with any necessary adaptations, where a person becomes entitled to a tenancy on the termination of a settlement or trust as they would apply if he had become entitled in accordance with the settlement or trust.

<sup>F68</sup>(6) .....

(7) For purposes of this section a person is a member of another’s family if that person is—

- (a) the other’s [<sup>F69</sup>spouse or civil partner]; or
- (b) a son or daughter or a son-in-law or daughter-in-law of the other, or of the other’s [<sup>F69</sup>spouse or civil partner]; or
- (c) the father or mother of the other, or of the other’s [<sup>F69</sup>spouse or civil partner].

In paragraph (b) above any reference to a person’s son or daughter includes a reference to any stepson or stepdaughter, any illegitimate son or daughter, . . . <sup>F70</sup> of that person, and “son-in-law” and “daughter-in-law” shall be construed accordingly.

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- (8) In Schedule 2 to the <sup>M11</sup>Intestates' Estates Act 1952 (which gives a surviving spouse a right to require the deceased's interest in the matrimonial home to be appropriated to the survivor's interest in the deceased's estate, but by paragraph 1(2) excludes tenancies terminating, or terminable by the landlord, within two years of the death), paragraph 1(2) shall not apply to a tenancy if—
- (a) the surviving [<sup>F71</sup>spouse or civil partner] would in consequence of an appropriation in accordance with that paragraph become entitled by virtue of this section to acquire the freehold or an extended lease under this Part of this Act, either immediately on the appropriation or before the tenancy can determine or be determined as mentioned in paragraph 1(2); or
  - (b) the deceased [<sup>F72</sup>spouse or civil partner], being entitled to acquire the freehold or an extended lease under this Part of this Act, had given notice of his or her desire to have it and the benefit of that notice is appropriated with the tenancy.
- (9) This section shall have effect in relation to deaths occurring before this Act was passed as it has effect in relation to deaths occurring after.

#### Textual Amendments

- F66** Words in s. 7(1)(b)(4) repealed (26.7.2002 for E. and 1.1.2003 for W.) by 2002 c. 15, s. 180, **Sch. 14**; S.I. 2002/1912, art. 2(b)(ii), **Sch. 1 Pt. 3** (subject to transitional provisions and savings in Sch. 2 of the commencing S.I.); S.I. 2002/3012, art. 2(b)(ii), **Sch. 1 Pt. 3** (subject to transitional provisions and savings in Sch. 2 of the commencing S.I.)
- F67** Words in s. 7(3)(4)(b) substituted (26.7.2002 for E. and 1.1.2003 for W.) by 2002 c. 15, s. 138(6); S.I. 2002/1912, art. 2(b)(i) (subject to transitional provisions and savings in Sch. 2 of the commencing S.I.); S.I. 2002/3012, art. 2(b)(i) (subject to transitional provisions and savings in Sch. 2 of the commencing S.I.)
- F68** S. 7(6) repealed (26.7.2002 for E. and 1.1.2003 for W.) by 2002 c. 15, s. 180, **Sch. 14**; S.I. 2002/1912, art. 2(b)(ii), **Sch. 1 Pt. 3** (subject to transitional provisions and savings in Sch. 2 of the commencing S.I.); S.I. 2002/3012, art. 2(b)(ii), **Sch. 1 Pt. 3** (subject to transitional provisions and savings in Sch. 2 of the commencing S.I.)
- F69** Words in s. 7(7) substituted (5.12.2005) by Civil Partnership Act 2004 (c. 33), s. 263(2), **Sch. 8 para. 6(2)**; S.I. 2005/3175, art. 2(1), Sch. 1
- F70** Words repealed by Children Act 1975 (c. 72), **Sch. 4 Pt. 1**
- F71** Words in s. 7(8)(a) substituted (5.12.2005) by Civil Partnership Act 2004 (c. 33), s. 263(2), **Sch. 8 para. 6(3)(a)**; S.I. 2005/3175, art. 2(1), Sch. 1
- F72** Words in s. 7(8)(b) substituted (5.12.2005) by Civil Partnership Act 2004 (c. 33), s. 263(2), **Sch. 8 para. 6(3)(b)**; S.I. 2005/3175, art. 2(1), Sch. 1

#### Marginal Citations

- M11** 1952 c. 64.

### Enfranchisement

## 8 Obligation to enfranchise. **E+W**

- (1) Where a tenant of a house has under this Part of this Act a right to acquire the freehold, and gives to the landlord written notice of his desire to have the freehold, then except as provided by this Part of this Act the landlord shall be bound to make to the tenant, and the tenant to accept, (at the price and on the conditions so provided) a grant of the

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house and premises for an estate in fee simple absolute, subject to the tenancy and to tenant's incumbrances, but otherwise free of incumbrances.

- (2) For purposes of this Part of this Act “incumbrances” includes rentcharges and, subject to subsection (3) below, personal liabilities attaching in respect of the ownership of land or an interest in land though not charged on that land or interest; and “tenant's incumbrances” includes any interest directly or indirectly derived out of the tenancy, and any incumbrance on the tenancy or any such interest (whether or not the same matter is an incumbrance also on any interest reversionary on the tenancy).
- (3) Burdens originating in tenure, and burdens in respect of the upkeep or regulation for the benefit of any locality of any land, building, structure, works, ways or watercourse shall not be treated as incumbrances for purposes of this Part of this Act, but any conveyance executed to give effect to this section shall be made subject thereto except as otherwise provided by section 11 below.
- (4) A conveyance executed to give effect to this section—
- shall have effect under section 2(1) of the <sup>M12</sup>Law of Property Act 1925 to overreach any incumbrance capable of being overreached under that section as if, where the interest conveyed is settled land, the conveyance were made under the powers of the <sup>M13</sup>Settled Land Act 1925 and as if the requirements of section 2(1) as to payment of the capital money allowed any part of the purchase price paid or applied in accordance with sections 11 to 13 below to be so paid or applied;
  - shall not be made subject to any incumbrance capable of being overreached by the conveyance, but shall be made subject (where they are not capable of being overreached) to rentcharges [<sup>F73</sup>redeemable under sections 8 to 10 of the <sup>M14</sup>Rentcharges Act 1977 and those falling within paragraphs (c) and (d) of section 2(3) of that Act (estate rentcharges and rentcharges imposed under certain enactments)], except as otherwise provided by section 11 below.
- (5) Notwithstanding that on a grant to a tenant of a house and premises under this section no payment or a nominal payment only is required from the tenant for the price of the house and premises, the tenant shall nevertheless be deemed for all purposes to be a purchaser for a valuable consideration in money or money's worth.

#### Textual Amendments

**F73** Words substituted by [Rentcharges Act 1977 \(c. 30\), s. 17\(4\), Sch. 1 para. 4\(1\)](#)

#### Modifications etc. (not altering text)

**C6** [S. 8](#) amended by [Leasehold Reform Act 1979 \(c. 44\), s. 1](#)

#### Marginal Citations

**M12** 1925 c. 20.

**M13** 1925 c. 18.

**M14** 1977 c. 30.

## 9 **Purchase price and costs of enfranchisement, and tenant's right to withdraw.** **E** **+W**

- (1) Subject to subsection (2) below, the price payable for a house and premises on a conveyance under section 8 above shall be the amount which at the relevant time the

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house and premises, if sold in the open market by a willing seller, [<sup>F74</sup>(with the tenant and members of his family <sup>F75</sup> . . . 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 tenancy but on the assumption that this Part of this Act conferred no right to acquire the freehold, and if the tenancy has not been extended under this Part of this Act, on the assumption that (subject to the landlord's rights under section 17 below) it was to be so extended;
- (b) on the assumption that (subject to paragraph (a) above) the vendor was selling subject, in respect of rentcharges . . . <sup>F76</sup> to which section 11(2) below applies, to the same annual charge as the conveyance to the tenant is to be subject to, but the purchaser would otherwise be effectively exonerated until the termination of the tenancy from any liability or charge in respect of tenant's 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 tenant is to be made, and in particular with and subject to such permanent or extended rights and burdens as are to be created in order to give effect to section 10 below.

[<sup>F77</sup>The reference in this subsection to members of the tenant's family shall be construed in accordance with section 7(7) of this Act.]

[<sup>F78</sup>(1A) [<sup>F79</sup>Notwithstanding the foregoing subsection, the price payable for a house and premises,—

- (i) the rateable value of which was above £1,000 in Greater London and £500 elsewhere on 31st March 1990, or,
- (ii) which had no rateable value on that date and R exceeded £16,333 under the formula in section 1(1)(a) above (and section 1(7) above shall apply to that amount as it applies to the amount referred to in subsection (1)(a)(ii) of that section)

shall be the amount which at the relevant time the house and premises, if sold in the open market by a willing seller, 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 tenancy, but on the assumption that this Part of this Act conferred no right to acquire the freehold; [<sup>F80</sup>or an extended lease <sup>F75</sup> . . . ]
  - (b) on the assumption that at the end of the tenancy the tenant has the right to remain in possession of the house and premises
- [<sup>F81</sup>(i) if the tenancy is such a tenancy as is mentioned in subsection (2) or subsection (3) of section 186 of the Local Government and Housing Act <sup>M15</sup>1989, or is a tenancy which is a long tenancy at a low rent for the purposes of Part I of the Landlord and Tenant Act <sup>M16</sup>1954 in respect of which the landlord is not able to serve a notice under section 4 of that Act specifying a date of termination earlier than 15th January 1999, under the provisions of Schedule 10 to the Local Government and Housing Act 1989; and
- (ii) in any other case] under the provisions of Part I of the <sup>M17</sup>Landlord and Tenant Act 1954;
  - (c) on the assumption that the tenant has no liability to carry out any repairs, maintenance or redecorations under the terms of the tenancy or Part I of the Landlord and Tenant Act 1954;

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- (d) on the assumption that the price be diminished by the extent to which the value of the house and premises has been increased by any improvement carried out by the tenant or his predecessors in title at their own expense;
- (e) on the assumption that (subject to paragraph (a) above) the vendor was selling subject, in respect of rentcharges . . . <sup>F82</sup> to which section 11(2) below applies, to the same annual charge as the conveyance to the tenant is to be subject to, but the purchaser would otherwise be effectively exonerated until the termination of the tenancy from any liability or charge in respect of tenant's incumbrances; and
- (f) 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 tenant is to be made, and in particular with and subject to such permanent or extended rights and burdens as are to be created in order to give effect to section 10 below.

[ Where, in a case in which the price payable for a house and premises is to be <sup>F83</sup>(1AA) determined in accordance with subsection (1A) above, the tenancy has been extended under this Part of this Act—

- (a) if the relevant time is on or before the original term date, the assumptions set out in that subsection apply as if the tenancy is to terminate on the original term date; and
- (b) if the relevant time is after the original term date, the assumptions set out in paragraphs (a), (c) and (e) of that subsection apply as if the tenancy had terminated on the original term date and the assumption set out in paragraph (b) of that subsection applies as if the words “at the end of the tenancy” were omitted.]

(1B) For the purpose of determining whether the rateable value of the house and premises is above £1,000 in Greater London, or £500 elsewhere, the rateable value shall be adjusted to take into account any tenant's improvements in accordance with Schedule 8 to the <sup>M18</sup>Housing Act 1974.]

[<sup>F84</sup>(1C) Notwithstanding subsection (1) above, the price payable for a house and premises where the right to acquire the freehold arises by virtue of any one or more of the provisions of sections 1A [<sup>F85</sup>[<sup>F86</sup>, 1AA]] and 1B above [<sup>F87</sup>, or where the tenancy of the house and premises has been extended under section 14 below and the notice under section 8(1) above was given (whether by the tenant or a sub-tenant) after the original term date of the tenancy,] shall be determined in accordance with subsection (1A) above; but in any such case—

- <sup>F88</sup>(a) . . . . .
- (b) section 9A below has effect for determining whether any additional amount is payable by way of compensation under that section;

and in a case where the provision (or one of the provisions) by virtue of which the right to acquire the freehold arises is section 1A(1) above, subsection (1A) above shall apply with the omission of the assumption set out in paragraph (b) of that subsection.]

[<sup>F89</sup>(1D) Where, in determining the price payable for a house and premises in accordance with this section, there falls to be taken into account any marriage value arising by virtue of the coalescence of the freehold and leasehold interests, the share of the marriage value to which the tenant is to be regarded as being entitled shall be one-half of it.]

[<sup>F90</sup>(1E) But where at the relevant time the unexpired term of the tenant's tenancy exceeds eighty years, the marriage value shall be taken to be nil.]



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- (2) The price payable for the house and premises shall be subject to such deduction (if any) in respect of any defect in the title to be conveyed to the tenant as on a sale in the open market might be expected to be allowed between a willing seller and a willing buyer.
- (3) On ascertaining the amount payable, or likely to be payable, as the price for a house and premises in accordance with this section (but not more than one month after the amount payable has been determined by agreement or otherwise), the tenant may give written notice to the landlord that he is unable or unwilling to acquire the house and premises at the price he must pay; and thereupon—
- (a) the notice under section 8 above of his desire to have the freehold shall cease to have effect, and he shall be liable to make such compensation as may be just to the landlord in respect of the interference (if any) by the notice with the exercise by the landlord of his power to dispose of or deal with the house and premises or any neighbouring property; and
  - (b) any further notice given under that section with respect to the house or any part of it (with or without other property) shall be void if given within the following [<sup>F91</sup>twelve months].
- (4) Where a person gives notice of his desire to have the freehold of a house and premises under this Part of this Act, then unless the notice lapses under any provision of this Act excluding his liability, 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 landlord of that person's right to acquire the freehold;
  - (b) any conveyance or assurance of the house and premises or any part thereof or of any outstanding estate or interest therein;
  - (c) deducing, evidencing and verifying the title to the house and premises or any estate or interest therein;
  - (d) making out and furnishing such abstracts and copies as the person giving the notice may require;
  - (e) any valuation of the house and premises;
- but so that this subsection shall not apply to any costs if on a sale made voluntarily a stipulation that they were to be borne by the purchaser would be void.
- [<sup>F92</sup>(4A) Subsection (4) above does not require a person to bear the costs of another person in connection with an application to [<sup>F93</sup>the appropriate tribunal].]
- (5) The landlord's lien (as vendor) on the house and premises for the price payable shall extend—
- (a) to any sums payable by way of rent or recoverable as rent in respect of the house and premises up to the date of the conveyance; and
  - (b) to any sums for which the tenant is liable under subsection (4) above; and
  - (c) to any other sums due and payable by him to the landlord under or in respect of the tenancy or any agreement collateral thereto.

#### Textual Amendments

**F74** Words inserted retrospectively by [Housing Act 1969 \(c. 33\), s. 82](#)

**F75** Words in s. 9(1)(1A)(a) repealed (26.7.2002 for E. and 1.1.2003 for W.) by [2002 c. 15, s. 180, Sch. 14; S.I. 2002/1912, art. 2\(b\)\(ii\), Sch. 1 Pt. 3](#) (subject to transitional provisions and savings in Sch. 2 of

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- the commencing S.I.); S.I. 2002/3012, art. 2(b)(ii), **Sch. 1 Pt. 3** (subject to transitional provisions and savings in Sch. 2 of the commencing S.I.)
- F76** Words repealed by **Rentcharges Act 1977** (c. 30), s. 17(4), **Sch. 2**
- F77** Words added retrospectively by **Housing Act 1969** (c. 33), s. **82**
- F78** S. 9(1A)(1B) inserted by **Housing Act 1974** (c. 44), s. **118(4)**
- F79** Words substituted by S.I. 1990/434, reg. 2, **Sch. para. 9**
- F80** Words inserted by **Housing and Planning Act 1986** (c. 63, SIF 75:1), s. **23(1)(3)**
- F81** S. 9(1A)(b)(i) and words following inserted by **Local Government and Housing Act 1989** (c. 42, SIF 75:1), s. 194(1), **Sch. 11 para. 9**
- F82** Words repealed by **Rentcharges Act 1977** (c. 30), s. 17(4), **Sch. 2**
- F83** S. 9(1AA) inserted (26.7.2002 for E. and 1.1.2003 for W.) by 2002 c. 15, s. **143(4)**; S.I. 2002/1912, art. **2(b)(i)** (subject to transitional provisions and savings in Sch. 2 of the commencing S.I.); S.I. 2002/3012, art. **2(b)(i)** (subject to transitional provisions and savings in Sch. 2 of the commencing S.I.)
- F84** S. 9(1C) inserted (1.11.1993) by 1993 c. 28, s. **66(1)**; S.I. 1993/2134, art. **5(a)**
- F85** Word in s. 9(1C) inserted (1.4.1997) by 1996 c. 52, s. 106, **Sch. 9 para. 2(1)(4)**; S.I. 1997/618, art. **2(1)** (with Sch.)
- F86** Words in s. 9(1C) repealed (7.9.2009 for E.) by **Housing and Regeneration Act 2008** (c. 17), s. 325(1), **Sch. 16**; S.I. 2009/2096, art. 2(2)(a)(c) (with art. 3(1)(2))
- F87** Words in s. 9(1C) inserted (26.7.2002 for E. and 1.1.2003 for W.) by 2002 c. 15, s. **147(1)**; S.I. 2002/1912, art. **2(b)(i)** (subject to transitional provisions and savings in Sch. 2 of the commencing S.I.); S.I. 2002/3012, art. 2(b)(i), **Sch. 1 Pt. 3** (subject to transitional provisions and savings in Sch. 2 of the commencing S.I.)
- F88** S. 9(1C)(a) repealed (26.7.2002 for E. and 1.1.2003 for W.) by 2002 c. 15, ss. 145(2), 180, **Sch. 14**; S.I. 2002/1912, art. 2(b), **Sch. 1 Pt. 3** (subject to transitional provisions and savings in Sch. 2 of the commencing S.I.); S.I. 2002/3012, art. 2(b), **Sch. 1 Pt. 3** (subject to transitional provisions and savings in Sch. 2 of the commencing S.I.)
- F89** S. 9(1D) inserted (26.7.2002 for E. and 1.1.2003 for W.) by 2002 c. 15, s. **145(3)**; S.I. 2002/1912, art. **2(b)(i)** (subject to transitional provisions and savings in Sch. 2 of the commencing S.I.); S.I. 2002/3012, art. 2(b)(i), **Sch. 1 Pt. 3** (subject to transitional provisions and savings in Sch. 2 of the commencing S.I.)
- F90** S. 9(1E) inserted (26.7.2002 for E. and 1.1.2003 for W.) by 2002 c. 15, s. **146**; S.I. 2002/1912, art. **2(b)(i)** (subject to transitional provisions and savings in Sch. 2 of the commencing S.I.); S.I. 2002/3012, art. 2(b)(i), **Sch. 1 Pt. 3** (subject to transitional provisions and savings in Sch. 2 of the commencing S.I.)
- F91** Words in s. 9(3)(b) substituted (26.7.2002 for E. and 1.1.2003 for W.) by 2002 c. 15, s. **139(3)(a)**; S.I. 2002/1912, art. **2(b)(i)** (subject to transitional provisions and savings in Sch. 2 of the commencing S.I.); S.I. 2002/3012, art. 2(b)(i), **Sch. 1 Pt. 3** (subject to transitional provisions and savings in Sch. 2 of the commencing S.I.)
- F92** S. 9(4A) inserted (30.9.2003 for E., 30.3.2004 for W.) by **Commonhold and Leasehold Reform Act 2002** (c. 15), s. 181(1), **Sch. 13 para. 2**; S.I. 2003/1986, art. 2(c)(i) (with Sch. 2); S.I. 2004/669, art. 2(c)(i) (with Sch. 2)
- F93** Words in s. 9(4A) substituted (1.7.2013) by **The Transfer of Tribunal Functions Order 2013** (S.I. 2013/1036), art. 1, **Sch. 1 para. 4** (with Sch. 3)

#### Modifications etc. (not altering text)

- C7** S. 9(1)(a) modified (1.11.1993) by 1993 c. 28, s. **73(10)(a)**; S.I. 1993/2134, art 5(a)
- C8** S. 9(1A) extended by **Housing Act 1985** (c. 68, SIF 61), s. **175(1)**
- C9** S. 9(4) excluded (1.11.1993) by 1993 c. 28, s. **74(4)**; S.I. 1993/2134, art. **5(a)**

#### Marginal Citations

- M15** 1989 c.42 (75:1).
- M16** 1954 c.56 (75:1).

*Status: Point in time view as at 12/04/2015.*

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**M17** 1954 c. 56.

**M18** 1974 c. 44.

**[9A]** <sup>F94</sup>**Compensation payable in cases where right to enfranchisement arises by virtue of section 1A or 1B.** **E+W**

- (1) If, in a case where the right to acquire the freehold of a house and premises arises by virtue of any one or more of the provisions of sections 1A [<sup>F95</sup>[<sup>F96</sup>, 1AA]] and 1B above [<sup>F97</sup> or where the tenancy of the house and premises has been extended under section 14 below and the notice under section 8(1) above was given (whether by the tenant or a sub-tenant) after the original term date of the tenancy], the landlord will suffer any loss or damage to which this section applies, there shall be payable to him such amount as is reasonable to compensate him for that loss or damage.
- (2) This section applies to—
  - (a) any diminution in value of any interest of the landlord in other property resulting from the acquisition of his interest in the house and premises; and
  - (b) any other loss or damage which results therefrom to the extent that it is referable to his ownership of any interest in other property.
- (3) Without prejudice to the generality of paragraph (b) of subsection (2) above, the kinds of loss falling within that paragraph include loss of development value in relation to the house and premises to the extent that it is referable as mentioned in that paragraph.
- (4) In subsection (3) above “development value”, in relation to the house and premises, means any increase in the value of the landlord’s interest in the house and premises which is attributable to the possibility of demolishing, reconstructing, or carrying out substantial works of construction on, the whole or a substantial part of the house and premises.
- (5) In relation to any case falling within subsection (1) above—
  - (a) any reference (however expressed)—
    - (i) in section 8 or 9(3) or (5) above, or
    - (ii) in any of the following provisions of this Act,  
to the price payable under section 9 above shall be construed as including a reference to any amount payable to the landlord under this section; and
  - (b) for the purpose of determining any such separate price as is mentioned in paragraph 7(1)(b) of Schedule 1 to this Act, this section shall accordingly apply (with any necessary modifications) to each of the superior interests in question.

**Textual Amendments**

**F94** S. 9A inserted (1.11.1993) by 1993 c. 28, s. 66(3); S.I. 1993/2134, art. 5(a)

**F95** Words in s. 9A(1) repealed (7.9.2009 for E.) by Housing and Regeneration Act 2008 (c. 17), s. 325(1), Sch. 16; S.I. 2009/2096, art. 2(2)(a)(c) (with art. 3(1)(2))

**F96** Word in s. 9A(1) inserted (1.4.1997) by 1996 c. 52, s. 106, Sch. 9 para. 2(1)(5); S.I. 1997/618, art. 2(1) (with Sch.)

**F97** Words in s. 9A(1) inserted (26.7.2002 for E. and 1.1.2003 for W.) by 2002 c. 15, s. 147(2); S.I. 2002/1912, art. 2(b)(i) (subject to transitional provisions and savings in Sch. 2 of the commencing

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S.I.); S.I. 2002/3012, art. 2(b)(i) (subject to transitional provisions and savings in Sch. 2 of the commencing S.I.)

## 10 Rights to be conveyed to tenant on enfranchisement. **E+W**

(1) Except for the purpose of preserving or recognising any existing interest of the landlord in tenant's incumbrances or any existing right or interest of any other person, a conveyance executed to give effect to section 8 above shall not be framed so as to exclude or restrict the general words implied in conveyances under section 62 of the <sup>M19</sup>Law of Property Act 1925, or the all-estate clause implied under section 63, unless the tenant consents to the exclusion or restriction; but the landlord shall not be bound to convey to the tenant any better title than that which he has or could require to be vested in him, <sup>F98</sup> . . . .

[<sup>F99</sup>(1A) The landlord shall not be required to enter into any covenant for title beyond those implied under Part I of the Law of Property (Miscellaneous Provisions) Act 1994 in a case where a disposition is expressed to be made with limited title guarantee; and in the absence of agreement to the contrary he shall be entitled to be indemnified by the tenant in respect of any costs incurred by him in complying with the covenant implied by virtue of section 2(1)(b) of that Act (covenant for further assurance).]

(2) As regards rights of any of the following descriptions, that is to say,—

- (a) rights of support for any building or part of a building;
- (b) rights to the access of light and air to any building or part of a building;
- (c) rights to the passage of water or of gas or other piped fuel, or to the drainage or disposal of water, sewage, smoke or fumes, or to the use or maintenance of pipes or other installations for such passage, drainage or disposal;
- (d) rights to the use or maintenance of cables or other installations for the supply of electricity, for the telephone or for the receipt directly or by landline of visual or other wireless transmissions;

a conveyance executed to give effect to section 8 above shall by virtue of this subsection (but without prejudice to any larger operation it may have apart from this subsection) have effect—

- (i) to grant with the house and premises all such easements and rights over other property, so far as the landlord is capable of granting them, as are necessary to secure to the tenant as nearly as may be the same rights as at the relevant time were available to him under or by virtue of the tenancy or any agreement collateral thereto, or under or by virtue of any grant, reservation or agreement made on the severance of the house and premises or any part thereof from other property then comprised in the same tenancy; and
- (ii) to make the house and premises subject to all such easements and rights for the benefit of other property as are capable of existing in law and are necessary to secure to the person interested in the other property as nearly as may be the same rights as at the relevant time were available against the tenant under or by virtue of the tenancy or any agreement collateral thereto, or under or by virtue of any grant, reservation or agreement made as is mentioned in paragraph (i) above.

(3) As regards right of way, a conveyance executed to give effect to section 8 above shall include—

- (a) such provisions (if any) as the tenant may require for the purpose of securing to him rights of way over property not conveyed, so far as the landlord is

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- capable of granting them, being rights of way which are necessary for the reasonable enjoyment of the house and premises as they have been enjoyed during the tenancy and in accordance with its provisions; and
- (b) such provisions (if any) as the landlord may require for the purpose of making the property conveyed subject to rights of way necessary for the reasonable enjoyment of other property, being property in which at the relevant time the landlord has an interest, or to rights of way granted or agreed to be granted before the relevant time by the landlord or by the person then entitled to the reversion on the tenancy.
- (4) As regards restrictive covenants (that is to say, any covenant or agreement restrictive of the user of any land or premises), a conveyance executed to give effect to section 8 above shall include—
- (a) such provisions (if any) as the landlord may require to secure that the tenant is bound by, or to indemnify the landlord against breaches of, restrictive covenants which affect the house and premises otherwise than by virtue of the tenancy or any agreement collateral thereto and are enforceable for the benefit of other property; and
- (b) such provisions (if any) as the landlord or the tenant may require to secure the continuance (with suitable adaptations) of restrictions arising by virtue of the tenancy or any agreement collateral thereto, being either—
- (i) restrictions affecting the house and premises which are capable of benefiting other property and (if enforceable only by the landlord) are such as materially to enhance the value of the other property; or
- (ii) restrictions affecting other property which are such as materially to enhance the value of the house and premises;
- (c) such further provisions (if any) as the landlord may require to restrict the use of the house and premises in any way which will not interfere with the reasonable enjoyment of the house and premises as they have been enjoyed during the tenancy but will materially enhance the value of other property in which the landlord has an interest.
- (5) Neither the landlord nor the tenant shall be entitled under subsection (3) or (4) above to require the inclusion in a conveyance of any provision which is unreasonable in all the circumstances, in view—
- (a) of the date at which the tenancy commenced, and changes since that date which affect the suitability at the relevant time of the provisions of the tenancy; and
- (b) where the tenancy is or was one of a number of tenancies of neighbouring houses, of the interests of those affected in respect of other houses.
- (6) The landlord may be required to give to the tenant an acknowledgment within the meaning of section 64 of the <sup>M20</sup>Law of Property Act 1925 as regards any documents of which the landlord retains possession, but not an undertaking for the safe custody of any such documents; and where the landlord is required to enter into any covenant under subsection (4) above, the person entering into the covenant as landlord shall be entitled to limit his personal liability to breaches of the covenant for which he is responsible.

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#### Textual Amendments

- F98** Words in s. 10(1) repealed (1.7.1995) by 1994 c. 36, ss. 21(1)(2), 22(2), Sch. 1 para. 5(1), **Sch. 2** (with s. 20); S.I. 1995/1317, **art. 2**
- F99** S. 10(1A) inserted (1.7.1995) by 1994 c. 36, ss. 21(1), 22(2), **Sch. 1 para. 5(1)** (with s. 20); S.I. 1995/1317, **art. 2**

#### Modifications etc. (not altering text)

- C10** S. 10 modified (1.11.1993) by 1993 c. 28, s. 70(12)(b); S.I. 1993/2134, **art. 5(a)**

#### Marginal Citations

- M19** 1925 c. 20.  
**M20** 1925 c. 20.

## 11 Exoneration from, or redemption of, rentcharges etc. **E+W**

- (1) Where a house and premises are to be conveyed to a tenant in pursuance of section 8 above, section 8(4)(b) shall not preclude the landlord from releasing, or procuring the release of, the house and premises from any rentcharge . . . <sup>F100</sup>; and the conveyance may, with the tenant's agreement (which shall not be unreasonably withheld), provide in accordance with section 190(1) of the <sup>M21</sup>Law of Property Act 1925 that a rentcharge shall be charged exclusively on other land affected by it in exoneration of the house and premises, or be apportioned between other land affected by it and the house and premises.
- (2) Where, but for this subsection, a conveyance of a house and premises to a tenant might in accordance with section 8 above be made subject, in respect of rents to which this subsection applies, to an annual charge exceeding the annual rent payable under the tenancy at the relevant time, then the landlord shall be bound on or before the execution of the conveyance to secure that the house and premises are discharged from the whole or part of any rents in question to the extent necessary to secure that the annual charge shall not exceed the annual rent so payable; and for this purpose the annual rent shall be calculated in accordance with section 4(1)(b) and (c) and (6) above.
- (3) For purposes of subsection (2) above the house and premises shall be treated as discharged from a rent to the extent to which—
  - (a) the rent is charged on or apportioned to other land so as to confer on the tenant in respect of the house and premises the remedies against the other land provided for by section 190(2) of the Law of Property Act 1925; or
  - (b) the landlord is otherwise entitled to be exonerated from or indemnified against liability for the rent in respect of the house and premises and the tenant will (in so far as the landlord's right is not a right against the tenant himself or his land) become entitled on the conveyance to the like exoneration or indemnity.
- (4) Where for the purpose of complying with subsection (2) above the house and premises are to be discharged from a rent by redemption of it (with or without prior apportionment), and for any reason mentioned in section <sup>F101</sup>13(2) below] difficulty arises in paying the redemption price, the tenant may, and if so required by the landlord shall, before execution of the conveyance pay into court on account of the price for the house and premises an amount not exceeding the appropriate amount to secure redemption of the rent; and if the amount so paid by the tenant is less than that appropriate amount, the landlord shall pay into court the balance.



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- (5) Where payment is made into court in accordance with subsection (4) above, the house and premises shall on execution of the conveyance be discharged from the rent, and any claim to the redemption money shall lie against the fund in court and not otherwise.
- (6) For purposes of subsection (4) above “the appropriate amount to secure redemption” of a rent is (subject to subsection (7) below) the amount of redemption money agreed to be paid or in default of agreement, the amount <sup>F102</sup>specified as the redemption price in instructions for redemption under section 9(4) of the <sup>M22</sup>Rentcharges Act 1977].
- (7) Where a rent affects other property as well as the house and premises, and the other property is not exonerated or indemnified by means of a charge on the house and premises, then—
- (a) “the appropriate amount to secure redemption” of the rent for purposes of subsection (4) above shall, if no amount has been agreed or <sup>F103</sup>specified] as mentioned in subsection (6), be such sum as, on an application under section <sup>F103</sup>4 of the Rentcharges Act 1977] for the apportionment of the rent, may, pending the apportionment, be approved by the apportioning authority as suitable provision (with a reasonable margin) for the redemption money of the part likely to be apportioned to the house and premises; and
- (b) the apportionment, when made, shall be deemed to have had effect from the date of the payment into court, and if in respect of any property affected by the rent there has been any overpayment or underpayment, the amount shall be made good by abatement of or addition to the next payment after the apportionment and (if necessary) later payments.
- (8) Subsection (2) above applies to rentcharges <sup>F104</sup>redeemable under sections 8 to 10 of the Rentcharges Act 1977] which during the continuance of the tenancy are, or but for the termination of the tenancy before their commencement would have been, recoverable from the landlord without his having a right to be indemnified by the tenant.

#### Textual Amendments

- F100** Words repealed by [Rentcharges Act 1977 \(c. 30\), s. 17\(4\), Sch. 2](#)
- F101** Words substituted by [Rentcharges Act 1977 \(c. 30\), s. 17\(4\), Sch. 1 para. 4\(2\) \(b\)](#)
- F102** Words substituted by [Rentcharges Act 1977 \(c. 30\), s. 17\(4\), Sch. 1 para. 4\(2\) \(c\)](#)
- F103** Words substituted by [Rentcharges Act 1977 \(c. 30\) s. 17\(4\), Sch. 1 para. 4\(2\) \(d\)](#)
- F104** Words substituted by [Rentcharges Act 1977 \(c. 30\), s. 17\(4\), Sch. 1 para. 4\(2\) \(e\)](#)

#### Marginal Citations

- M21** [1925 c. 20.](#)
- M22** [1977 c. 30.](#)

## 12 Discharge of mortgages etc. on landlord’s estate. **E+W**

- (1) Subject to the provisions of this section, a conveyance executed to give effect to section 8 above shall, as regards any charge on the landlord’s estate (however created or arising) to secure the payment of money or the performance of any other obligation by the landlord or any other person, not being a charge subject to which the conveyance is required to be made or which would be overreached apart from this section, be effective by virtue of this section to discharge the house and premises from the charge, and from the operation of any order made by a court for the enforcement of the charge,



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and to extinguish any term of years created for the purposes of the charge, and shall do so without the persons entitled to or interested in the charge or in any such order or term of years becoming parties to or executing the conveyance.

- (2) Where in accordance with subsection (1) above the conveyance to a tenant will be effective to discharge the house and premises from a charge to secure the payment of money, then except as otherwise provided by this section it shall be the duty of the tenant to apply the price payable for the house and premises, in the first instance, in or towards the redemption of any such charge (and, if there are more than one, then according to their priorities); and if any amount payable in accordance with this subsection to the person entitled to the benefit of a charge is not so paid nor paid into court in accordance with section 13 below, then for the amount in question the house and premises shall remain subject to the charge, and to that extent subsection (1) above shall not apply.
- (3) For the purpose of determining the amount payable in respect of any charge under subsection (2) above a person entitled to the benefit of a charge to which that subsection applies shall not be permitted to exercise any right to consolidate that charge with a separate charge on other property; and if the landlord or the tenant is himself entitled to the benefit of a charge to which that subsection applies, it shall rank for payment as it would if another person were entitled to it, and the tenant shall be entitled to retain the appropriate amount in respect of any such charge of his.
- (4) For the purpose of discharging the house and premises from a charge to which subsection (2) above applies, a person may be required to accept three months or any longer notice of the intention to pay the whole or part of the principal secured by the charge, together with interest to the date of payment, notwithstanding that the terms of the security make other provision or no provision as to the time and manner of payment; but he shall be entitled, if he so requires, to receive such additional payment as is reasonable in the circumstances in respect of the costs of re-investment or other incidental costs and expenses and in respect of any reduction in the rate of interest obtainable on reinvestment.
- (5) Subsection (2) above shall not apply to any debenture holders' charge, that is to say, any charge, whether a floating charge or not, in favour of the holders of a series of debentures issued by a company or other body of persons, or in favour of trustees for such debenture holders; and any such charge shall be disregarded in determining priorities for purposes of subsection (2):

Provided that this subsection shall not have effect in relation to a charge in favour of trustees for debenture holders which at the date of the conveyance to the tenant is (as regards the house and premises) a specific and not a floating charge.

- (6) Where the house and premises are discharged by this section from a charge (without the obligations secured by the charge being satisfied by the receipt of the whole or part of the price), the discharge of the house and premises shall not prejudice any right or remedy for the enforcement of those obligations against other property comprised in the same or any other security, nor prejudice any personal liability as principal or otherwise of the landlord or any other person.
- (7) Subsections (1) and (2) above shall not be taken to prevent a person from joining in the conveyance for the purpose of discharging the house and premises from any charge without payment or for a less payment than that to which he would otherwise be entitled; and, if he does so, the persons to whom the price ought to be paid shall be determined accordingly.

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- (8) A charge on the landlord's estate to secure the payment of money or the performance of any other obligation shall not be treated for the purposes of this Part of this Act as a tenant's incumbrance by reason only of the grant of the tenancy being subsequent to the creation of the charge and not authorised as against the persons interested in the charge; and this section shall apply as if the persons so interested at the time of the grant had duly concurred in the grant for the purpose (but only for the purpose) of validating it despite the charge on the grantor's estate:

Provided that, where the tenancy is granted after the commencement of this Part of this Act (whether or not it is, by virtue of section 3(3) above, to be treated for other purposes as forming a single tenancy with a previous tenancy) and the tenancy has not by the time of the conveyance of the house and premises to the tenant become binding on the persons interested in the charge, the conveyance shall not by virtue of this section discharge the house and premises from the charge except so far as it is satisfied by the application or payment into court of the price payable for the house and premises.

- (9) Nothing in this section shall apply in relation to any charge falling within section 11 above, and for purposes of subsection (2) above the price payable for the house and premises shall be treated as reduced by any amount to be paid out of it before execution of the conveyance for the redemption of a rent in accordance with section 11(4).

### 13 **Payment into court in respect of mortgages etc.** E+W

- (1) Where under section 12(1) above a house and premises are, on a conveyance to the tenant, to be discharged of any charge falling within that subsection, and in accordance with section 12(2) a person is or may be entitled in respect of the charge to receive the whole or part of the price payable for the house and premises, then if—

- (a) for any reason difficulty arises in ascertaining how much is payable in respect of the charge; or
- (b) for any reason mentioned in subsection (2) below difficulty arises in making a payment in respect of the charge;

the tenant may pay into court on account of the price for the house and premises the amount, if known, of the payment to be made in respect of the charge or, if that amount is not known, the whole of the price or such less amount as the tenant thinks right in order to provide for that payment.

- (2) Payment may be made into court in accordance with subsection (1)(b) above where the difficulty arises for any of the following reasons:—

- (a) because a person who is or may be entitled to receive payment cannot be found or ascertained;
- (b) because any such person refuses or fails to make out a title, or to accept payment and give a proper discharge, or to take any steps reasonably required of him to enable the sum payable to be ascertained and paid; or
- (c) because a tender of the sum payable cannot, by reason of complications in the title to it or the want of two or more trustees or for other reasons, be effected, or not without incurring or involving unreasonable cost or delay.

- (3) Without prejudice to subsection (1)(a) above, the price payable for a house and premises on a conveyance under section 8 above shall be paid by the tenant into court if before execution of the conveyance written notice is given to him—

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- (a) that the landlord or a person entitled to the benefit of a charge on the house and premises so requires for the purpose of protecting the rights of persons so entitled, or for reasons related to any application made or to be made under section 36 below, or to the bankruptcy or winding up of the landlord; or
- (b) that steps have been taken to enforce any charge on the landlord's interest in the house and premises by the bringing of proceedings in any court, or by the appointment of a receiver, or otherwise;

and where payment is to be made into court by reason only of a notice under this subsection, and the notice is given with reference to proceedings in a court specified in the notice other than the county court, payment shall be made into the court so specified.

- (4) For the purpose of computing the amount payable into court under this section, the price payable for the house and premises shall be treated as reduced by any amount to be paid out of it before execution of the conveyance for the redemption of a rent in accordance with section 11(4) above.

#### *Extension*

### 14 **Obligation to grant extended lease.** E+W

- (1) Where a tenant of a house has under this Part of this Act a right to an extended lease, and gives to the landlord written notice of his desire to have it, then except as provided by this Part of this Act the landlord shall be bound to grant to the tenant, and the tenant to accept, in substitution for the existing tenancy a new tenancy of the house and premises for a term expiring fifty years after the term date of the existing tenancy.
- (2) Where a person gives notice of his desire to have an extended lease of a house and premises under this Part of this Act, then unless the notice lapses under any provision of this Act excluding his liability, 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 landlord of that person's right to an extended lease;
  - (b) any lease granting the new tenancy;
  - (c) any valuation of the house and premises obtained by the landlord before the grant of the new tenancy for the purpose of fixing the rent payable under it in accordance with section 15 below.

[<sup>F105</sup>(2A) Subsection (2) above does not require a person to bear the costs of another person in connection with an application to [<sup>F106</sup>the appropriate tribunal].]

- (3) A tenant shall not be entitled to require the execution of a lease granting a new tenancy 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 house and premises up to the date of tender; and
  - (b) of any sums for which at that date the tenant is liable under subsection (2) above; and
  - (c) of any other sums due and payable by him to the landlord under or in respect of the existing tenancy 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.

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- (4) This section shall have effect notwithstanding that the grant of the existing tenancy was subsequent to the creation of a charge on the landlord's estate and not authorised as against the persons interested in the charge; and a lease executed to give effect to this section shall be deemed to be authorised as against the persons interested in any charge on the landlord's estate, however created or arising, and shall be binding on them:

Provided that, where the existing tenancy is granted after the commencement of this Part of this Act (whether or not it is, by virtue of section 3(3) above, to be treated for other purposes as forming a single tenancy with a previous tenancy) and, the grant being subsequent to the creation of the charge on the landlord's estate, the existing tenancy is not binding on the persons interested in the charge, a lease executed to give effect to this section shall not by virtue of this subsection be binding on those persons.

- (5) Where a lease is executed to give effect to this section, and any person having a charge on the landlord's estate is by reason thereof entitled to possession of the documents of title relating to that estate, the landlord shall within one month after execution of the lease deliver to that person a counterpart of it duly executed by the tenant, and the instrument creating or evidencing the charge shall apply in the event of his failing to deliver a counterpart in accordance with this subsection as if the obligation to do so were included in the terms of the charge as set out in that instrument.
- (6) Where under a lease executed to give effect to this section the new tenancy takes effect subject to a subsisting charge on the existing tenancy, and at the time of its execution the person having the charge is by reason thereof entitled to possession of the documents of title relating to the existing tenancy, then he shall be similarly entitled to possession of the documents of title relating to the new tenancy and the tenant shall within one month of the execution of the lease deliver it to him, and the instrument creating or evidencing the charge shall apply in the event of the tenant failing to deliver the lease in accordance with this subsection as if the obligation to do so were included in the terms of the charge as set out in that instrument.
- (7) A landlord granting a lease under this section shall be bound to take such steps as may be necessary to secure that it is not liable in accordance with the proviso to subsection (4) above to be defeated by persons interested in a charge on his estate; but a landlord is not obliged, in order to grant a lease under this section, to acquire a better title than he has or could require to be vested in him.

#### Textual Amendments

- F105** S. 14(2A) inserted (30.9.2003 for E., 30.3.2004 for W.) by [Commonhold and Leasehold Reform Act 2002 \(c. 15\)](#), s. 181(1), [Sch. 13 para. 3](#); S.I. 2003/1986, art. 2(c)(i) (with Sch. 2); S.I. 2004/669, art. 2(c)(i) (with Sch. 2)
- F106** Words in s. 14(2A) substituted (1.7.2013) by [The Transfer of Tribunal Functions Order 2013 \(S.I. 2013/1036\)](#), art. 1, [Sch. 1 para. 5](#) (with Sch. 3)

## 15 Terms of tenancy to be granted on extension. **E+W**

- (1) Subject to the provisions of this Part of this Act, the new tenancy to be granted under section 14 above shall be a tenancy on the same terms as the existing tenancy as those terms apply at the relevant time, but with such modifications as may be required or appropriate to take account—

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- (a) of the omission from the new tenancy of property comprised in the existing tenancy; or
  - (b) of alterations made to the property demised since the grant of the existing tenancy; or
  - (c) in a case where the existing tenancy derives (in accordance with section 3(6) above) from more than one separate tenancies, of their combined effect and of the differences (if any) in their terms.
- (2) The new tenancy shall provide that as from the original term date the rent payable for the house and premises shall be a rent ascertained or to be ascertained as follows:—

  - (a) the rent shall be a ground rent in the sense that it shall represent the letting value of the site (without including anything for the value of buildings on the site) for the uses to which the house and premises have been put since the commencement of the existing tenancy, other than uses which by the terms of the new tenancy are not permitted or are permitted only with the landlord's consent;
  - (b) the letting value for this purpose shall be in the first instance the letting value at the date from which the rent based on it is to commence, but as from the expiration of twenty-five years from the original term date the letting value at the expiration of those twenty-five years shall be substituted, if the landlord so requires, and a revised rent become payable accordingly;
  - (c) the letting value at either of the times mentioned shall be determined not earlier than twelve months before that time (the reasonable cost of obtaining a valuation for the purpose being borne by the tenant), and there shall be no revision of the rent as provided by paragraph (b) above unless in the last of the twenty-five years there mentioned the landlord gives the tenant written notice claiming a revision.
- (3) Where during the continuance of the new tenancy the landlord will be under any obligation for the provision of services, or for repairs, maintenance or insurance, the rent payable in accordance with subsection (2) above shall be in addition to any sums payable (whether as rent or otherwise) in consideration of those matters or in respect of the cost thereof to the landlord; and if the terms of the existing tenancy include no provision for the making of any such payments by the tenant, or provision only for the payment of a fixed amount, the terms of the new tenancy shall make, as from the time when rent becomes payable in accordance with subsection (2) above, such provision as may be just for the making by the tenant of payments related to the cost from time to time to the landlord, and for the tenant's liability to make those payments to be enforceable by [<sup>F107</sup>re-entry or otherwise (subject to section 85 of the Tribunals, Courts and Enforcement Act 2007)] in like manner as the liability for the rent.
- (4) Subject to subsection (5) below, provision shall be made by the terms of the new tenancy or by an instrument collateral thereto for the continuance with any suitable adaptations of any agreement collateral to the existing tenancy.
- (5) For purposes of subsections (1) and (4) above, there shall be excluded any term of the existing tenancy or any agreement collateral thereto in so far as that term provides for or relates to the renewal of the tenancy, or confers any option to purchase or right of pre-emption in relation to the house and premises, or provides for the termination of the tenancy before the term date otherwise than in the event of a breach of its terms; and there shall be made in the terms of the new tenancy or any instrument collateral thereto such modifications as may be required or appropriate to take account of the exclusion of any such term as aforesaid.

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- (6) Where the new tenancy is granted after the original term date, the first reference in subsection (2) above to that date shall have effect as a reference to the grant of the new tenancy; but on the grant of the new tenancy there shall be payable by the tenant to the landlord as an addition to the rent payable under the existing tenancy any amount by which for the period since the relevant time or the original term date (whichever is the later) the sums payable to the landlord in respect of the house and premises (after making any necessary apportionment) for rent and matters referred to in subsection (3) above fall short in total of the sums that would have been payable for rent and matters so referred to under the new tenancy, and section 14(3)(a) above shall apply accordingly.
- (7) Subsections (1) to (6) above shall have effect subject to any agreement between the landlord and tenant as to the terms of the new tenancy or any agreement collateral thereto; and either of them may require that for purposes of the new tenancy there shall be excluded or modified any term of the existing tenancy or an agreement collateral thereto which it would be unreasonable in the circumstances to include unchanged in the new tenancy in view of the date at which the existing tenancy commenced and of changes since that date which affect the suitability at the relevant time of the provisions of that tenancy.
- (8) The new tenancy shall make provision in accordance with section 16(4) below, and shall reserve to the landlord the right to resume possession in accordance with section 17.
- [<sup>F108</sup>(9) In granting the new tenancy, the landlord shall not be bound to enter into any covenant for title beyond—
- (a) those implied from the grant, and
  - (b) those implied under Part I of the Law of Property (Miscellaneous Provisions) Act 1994 in a case where a disposition is expressed to be made with limited title guarantee, but not including (in the case of a sub-tenancy) the covenant in section 4(1)(b) of that Act (compliance with terms of lease);
- and in the absence of agreement to the contrary the landlord shall be entitled to be indemnified by the tenant in respect of any costs incurred by him in complying with the covenant implied by virtue of section 2(1)(b) of that Act (covenant for further assurance).
- (9A) A person entering into any covenant required of him as landlord (under subsection (9) or otherwise) shall be entitled to limit his personal liability to breaches of that covenant for which he is responsible.]
- (10) Nothing in this section shall affect the rights or obligations of the landlord under section 35 of and Schedule 1 to the <sup>M23</sup>Sexual Offences Act 1956 (which apply where the tenant or occupier of any premises is convicted of permitting the whole or part of them to be used as a brothel).

#### Textual Amendments

**F107** Words in s. 15(3) substituted (6.4.2014) by [Tribunals, Courts and Enforcement Act 2007 \(c. 15\)](#), s. 148, [Sch. 14 para. 29](#) (with s. 89); S.I. 2014/768, art. 2(1)(b)

**F108** S. 15(9) substituted for s. 15(9)(9A) (1.7.1995) by 1994 c. 36, s. 21(1), [Sch. 1 para. 5\(2\)](#) (with s. 20); S.I. 1995/1317, [art. 2](#)

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### Marginal Citations

M23 1956 c. 69.

## 16 Exclusion of further rights after extension. **E+W**

(1) Subject to subsections (2) and (3) below, where a tenancy of a house and premises has been extended under section 14 above, then as regards any property comprised in the extended tenancy—

- <sup>F109</sup>(a) . . . . .
- (b) there shall be no further right to an extension of the tenancy under this Part of this Act; and
- (c) neither section 1 of the <sup>M24</sup>Landlord and Tenant Act 1954 nor Part II of that Act shall apply to the tenancy; and
- (d) after the extended term date neither section 1 of the Landlord and Tenant Act 1954 nor Part II of that Act shall apply to any sub-tenancy directly or indirectly derived out of the tenancy, nor shall a person be entitled by virtue of any such sub-tenancy to retain possession under [<sup>F110</sup>Part VII of the <sup>M25</sup>Rent Act 1977] or any enactment applying or extending that Part of that Act [<sup>F112</sup>or under the <sup>M26</sup>Rent (Agriculture) Act 1976].

[<sup>F113</sup>(1A) The Rent Act 1977 shall not apply to a tenancy extended under section 14 above; but if when this provision comes into force a rent is registered under Part IV of the 1977 Act for a dwelling-house which is the subject of an extended tenancy, the tenant shall not be obliged to pay more than the registered rent under the extended tenancy until the next rental period (within the meaning of the 1977 Act) after the landlord has served on him a notice in writing that the registered rent no longer applies.]

[<sup>F114</sup>(1B) Schedule 10 to the Local Government and Housing Act 1989 applies to every tenancy extended under section 14 above (whether or not it is for the purposes of that Schedule a long tenancy at a low rent as respects which the qualifying condition is fulfilled).]

- (2) Where—
- (a) a tenancy of a house and premises has been extended under section 14 above; and
- (b) any part other than the house of the property then comprised in that tenancy is afterwards (while so comprised) held or occupied with another house not so comprised;

subsection (1)(a) or (b) above shall not apply to exclude any right under this Part of this Act of a tenant of the other house to acquire the freehold or an extended lease of that part as being at the relevant time comprised in his house and premises, unless the landlord objects in accordance with subsection (3) below.

- (3) If, in a case falling within subsection (2) above, a tenant of the other house gives notice of his desire to have <sup>F115</sup>. . . an extended lease under this Part of this Act, the landlord, not later than two months afterwards, may give him written notice objecting to the inclusion in his house and premises of the part in question; and, if the landlord does so, that part shall be treated as not so included and this Part of this Act shall apply as it applies where property is excluded from a house and premises under section 2(4):

<sup>F115</sup> . . . .



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- (4) Where a tenancy has been extended under section 14 above, no long tenancy created immediately or derivatively by way of sub-demise under the tenancy shall confer on the sub-tenant, as against the tenant's landlord, any right under this Part of this Act to acquire<sup>F116</sup> . . . an extended lease.
- (5) Where a tenancy has been extended under section 14 above, and that tenancy and any subsequent tenancy at a low rent of property comprised in it (with or without intervening tenancies) are to be treated under section 3(3) above as a single tenancy of that property, the single tenancy shall be treated for purposes of this section as one which has been extended under section 14, and the instrument granting any such subsequent tenancy shall make provision in accordance with subsection (4) above.
- (6) A person granting a sub-tenancy to which subsection (1)(d) above will apply, or negotiating with a view to the grant of such a sub-tenancy by him or by a person for whom he is acting as agent, shall inform the other party that the sub-tenancy is to be derived out of a tenancy extended under section 14 of this Act (or one treated for purposes of this section as so extended), unless either he knows that the other party is aware of it or he himself is unaware of it.
- (7) Where an instrument extending a tenancy at a low rent, or granting a further tenancy at a low rent in substitution for or in continuance of such a tenancy, contains a statement to the effect that the tenancy is being or has been previously extended under this Part of this Act, the statement shall be conclusive for purposes of this section in favour of any person not being a party to the instrument, unless the statement appears from the instrument to be untrue.
- (8) Any person who—
- (a) includes or causes to be included in an instrument a statement to the effect mentioned in subsection (7) above, knowing the statement to be untrue; or
  - (b) executes, or with intent to deceive makes use of, any instrument, knowing that it contains such a statement and that the statement is untrue;
- shall be liable on conviction on indictment to imprisonment for a term not exceeding two years, or on summary conviction to imprisonment for a term not exceeding three months or to a fine not exceeding one hundred pounds or to both.

#### Textual Amendments

- F109** S. 16(1)(a) repealed (26.7.2002 for E. and 1.1.2003 for W.) by 2002 c. 15, ss. 143(1)(a)(3), 180, **Sch. 14**; S.I. 2002/1912, art. 2(b)(ii), **Sch. 1 Pt. 3** (subject to transitional provisions and savings in Sch. 2 of the commencing S.I.); S.I. 2002/3012, art. 2(b)(ii), **Sch. 1 Pt. 3** (subject to transitional provisions and savings in Sch. 2 of the commencing S.I.)
- F110** Words substituted by **Rent Act 1968 (c. 23), Sch. 15**; continued by **Rent Act 1977 (c. 42), Sch. 24 para. 30**
- F111** Words substituted by **Rent Act 1977 (c. 42), s. 155(2), Sch. 23 para. 43**
- F112** Words added by **Rent (Agriculture) Act 1976 (c. 80), Sch. 8 para. 17**
- F113** S. 16(1A) inserted by **Housing Act 1980 (c. 51), Sch. 21 para. 4**
- F114** S. 16(1B) substituted (26.7.2002 for E. and 1.1.2003 for W.) by 2002 c. 15, s. 143(2)(3); S.I. 2002/1912, art. 2(b)(i) (subject to transitional provisions and savings in Sch. 2 of the commencing S.I.); S.I. 2002/3012, art. 2(b)(i) (subject to transitional provisions and savings in Sch. 2 of the commencing S.I.)
- F115** Words in s. 16(3) and proviso repealed (26.7.2002 for E. and 1.1.2003 for W.) by 2002 c. 15, s. 180, **Sch. 14**; S.I. 2002/1912, art. 2(b)(ii), **Sch. 1 Pt. 3** (subject to transitional provisions and savings in Sch.

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2 of the commencing S.I.); S.I. 2002/3012, art. 2(b)(ii), **Sch. 1 Pt. 3** (subject to transitional provisions and savings in Sch. 2 of the commencing S.I.)

**F116** Words in s. 16(4) repealed (26.7.2002 for E. and 1.1.2003 for W.) by 2002 c. 15, ss. 143(1)(b)(3), 180, **Sch. 14**; S.I. 2002/1912, art. 2(b)(ii), **Sch. 1 Pt. 3** (subject to transitional provisions and savings in Sch. 2 of the commencing S.I.); S.I. 2002/3012, art. 2(b)(ii), **Sch. 1 Pt. 3** (subject to transitional provisions and savings in Sch. 2 of the commencing S.I.)

#### Marginal Citations

**M24** 1954 c. 56.

**M25** 1977 c. 42.

**M26** 1976 c. 80.

### *Landlord's overriding rights*

#### 17 **Redevelopment rights (exclusion or termination of extension).** **E+W**

- (1) Where a tenancy of a house and premises has been extended under section 14 above, the landlord may, at any time not earlier than twelve months before the original term date of the tenancy, apply to the court for an order that he may resume possession of the property on the ground that for purposes of redevelopment he proposes to demolish or reconstruct the whole or a substantial part of the house and premises.
- (2) If on an application under subsection (1) above the court is satisfied that the landlord has established the ground mentioned in that subsection, then subject to the provisions of this section the court shall by order declare that the landlord is entitled as against the tenant to obtain possession of the house and premises and the tenant is entitled to be paid compensation by the landlord for the loss of the house and premises.
- (3) Where an order is made under subsection (2) above, the tenancy shall determine and the compensation become payable in accordance with Schedule 2 to this Act; and the provisions of that Schedule shall have effect as regards the measure of compensation under any such order and the effects of the order where there are sub-tenancies, and as regards other matters relating to applications and orders under this section.
- (4) Where the tenancy of a house and premises has not been extended under section 14 above, but the tenant has a right to an extended lease and gives notice of his desire to have one, then this section shall apply as if the lease had been extended under section 14; and—
  - (a) on the making by the landlord of an application under this section, the notice shall be suspended until the time when an order under subsection (2) or an order dismissing the application becomes final or the application is withdrawn; and
  - (b) on an order under subsection (2) becoming final, the notice shall cease to have effect, but section 14(2) above shall not apply to require the tenant to make any payment to the landlord in respect of costs incurred by reason of the notice.
- (5) For purposes of subsection (4) above, the reference in subsection (1) to the original term date shall have effect as a reference to the term date or, in a case where before the relevant time the landlord had given notice to quit terminating the tenancy at a date earlier than the term date, as a reference to the date specified in the notice to quit.
- (6) Where a landlord makes an application under subsection (1) above, then—

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- (a) if the tenant afterwards gives notice of his desire to have the freehold of the house and premises under this Part of this Act, that notice shall be of no effect if it is not given before the date of the order fixing the date for the termination of the tenancy (in accordance with Schedule 2 to this Act), or if the tenant's notice of his desire to have an extended lease was given within twelve months before the making of the landlord's application; and
- (b) if a notice given by the tenant (before or after the making of the landlord's application) of his desire to have the freehold has effect, no order or further order shall be made on the landlord's application except as regards costs, but without prejudice to the making of a further application by the landlord if the tenant's notice lapses without effect being given to it.

## 18 Residential rights (exclusion of enfranchisement or extension). **E+W**

- (1) Subject to subsection (2) below, where the tenancy of a house and premises has not been extended under section 14 above, but the tenant has a right to acquire the freehold or an extended lease and has given notice of his desire to have it, the landlord may, at any time before effect is given to the notice, apply to the court for an order that he may resume possession of the property on the ground that it or part of it is or will be reasonably required by him for occupation as the only or main residence of the landlord or of a person who is at the time of the application an adult member of the landlord's family.
- (2) A landlord shall not be entitled to apply to the court under this section if his interest in the house and premises, or an interest which has merged in that interest but would otherwise have had a duration extending at least five years longer than that of the tenancy, was purchased or created after the 18th February 1966; and for purposes of this subsection the duration of any interest in the house and premises (including the tenancy) shall be taken to be the period until it is due to expire or, if capable of earlier determination by notice given by a person as landlord, the date or earliest date which has been or could be specified in such a notice.
- (3) Where the landlord's interest is held on trust, subsection (1) above shall apply as if the reference to occupation as the residence of the landlord were a reference to the like occupation of a person having an interest under the trust (whether or not also a trustee), and the reference to a member of the landlord's family were a reference to the like member of such a person's family; and for purposes of subsection (1) a person is an adult member of another's family if that person is—
  - (a) the other's [<sup>F117</sup>spouse or civil partner]; or
  - (b) a son or daughter or a son-in-law or daughter-in-law of the other, or of the other's [<sup>F117</sup>spouse or civil partner], who has attained the age of eighteen; or
  - (c) the father or mother of the other, or of the other's [<sup>F117</sup>spouse or civil partner].

In paragraph (b) above any reference to a person's son or daughter includes a reference to any stepson or stepdaughter, any illegitimate son or daughter, . . . <sup>F118</sup> of that person, and "son-in-law" and "daughter-in-law" shall be construed accordingly.

- (4) If on an application under subsection (1) above the court is satisfied that the landlord has established the ground mentioned in that subsection and is not disentitled by subsection (2), the court shall by order declare that the landlord is entitled as against the tenant to obtain possession of the house and premises and the tenant is entitled to be paid compensation by the landlord for the loss of the house and premises:

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Provided that the court shall not make an order under this subsection if the court is satisfied that having regard to all the circumstances of the case, including the question whether other accommodation is available for the landlord or the tenant, greater hardship would be caused by making the order than by refusing to make it.

- (5) Where an order is made under subsection (4) above, the tenancy shall determine and the compensation become payable in accordance with Schedule 2 to this Act; and the provisions of that Schedule shall have effect as regards the measure of compensation under any such order and the effects of the order where there are sub-tenancies, and as regards other matters relating to applications and orders under this section.
- (6) Where a landlord makes an application under this section,—
- (a) any notice previously given by the tenant of his desire to have the freehold or an extended lease of the house and premises under this Part of this Act shall be suspended until the time when an order under subsection (4) or an order dismissing the application becomes final or the application is withdrawn; and
  - (b) on an order under subsection (4) becoming final, the notice shall cease to have effect, but section 9(4) or 14(2) above shall not apply to require the tenant to make any payment to the landlord in respect of costs incurred by reason of the notice;

and a notice of the tenant's desire to have the freehold shall be of no effect if given after the making of the application and before the time referred to in paragraph (a) above or after an order under subsection (4) above has become final.

#### Textual Amendments

**F117** Words in s. 18(3) substituted (5.12.2005) by [Civil Partnership Act 2004 \(c. 33\)](#), s. 263(2), [Sch. 8 para. 7](#); [S.I. 2005/3175](#), art. 2(1), [Sch. 1](#)

**F118** Words repealed by [Children Act 1975 \(c. 72\)](#), [Sch. 4 Pt. I](#)

## 19 Retention of management powers for general benefit of neighbourhood. E+W

- (1) Where, in the case of any area which is occupied directly or indirectly under tenancies held from one landlord (apart from property occupied by him or his licensees or for the time being unoccupied), the Minister on an application made within the two years beginning with the commencement of this Part of this Act grants a certificate that, in order to maintain adequate standards of appearance and amenity and regulate redevelopment in the area in the event of tenants acquiring the landlord's interest in their house and premises under this Part of this Act, it is in the Minister's opinion likely to be in the general interest that the landlord should retain powers of management in respect of the house and premises or have rights against the house and premises in respect of the benefits arising from the exercise elsewhere of his powers of management, then the High Court may, on an application made within one year of the giving of the certificate, approve a scheme giving the landlord such powers and rights as are contemplated by this subsection.

For purposes of this section "the Minister" means as regards areas within Wales and Monmouthshire the Secretary of State, and as regards other areas the Minister of Housing and Local Government.

- (2) The Minister shall not give a certificate under this section unless he is satisfied that the applicant has, by advertisement or otherwise as may be required by the Minister,

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given adequate notice to persons interested, informing them of the application for a certificate and its purpose and inviting them to make representations to the Minister for or against the application within a time which appears to the Minister to be reasonable; and before giving a certificate the Minister shall consider any representations so made within that time, and if from those representations it appears to him that there is among the persons making them substantial opposition to the application, he shall afford to those opposing the application, and on the same occasion to the applicant and such (if any) as the Minister thinks fit of those in favour of the application, an opportunity to appear and be heard by a person appointed by the Minister for the purpose, and shall consider the report of that person.

- (3) The Minister in considering whether to grant a certificate authorising a scheme for any area, and the High Court in considering whether to approve a scheme shall have regard primarily to the benefit likely to result from the scheme to the area as a whole (including houses likely to be acquired from the landlord under this Part of this Act), and the extent to which it is reasonable to impose, for the benefit of the area, obligations on tenants so acquiring their freeholds; but regard may also be had to the past development and present character of the area and to architectural or historical considerations, to neighbouring areas and to the circumstances generally.
- (4) If, having regard to the matters mentioned in subsection (3) above, to the provision which it is practicable to make by a scheme, and to any change of circumstances since the giving of the certificate under subsection (1), the High Court think it proper so to do, then the High Court may by order—
  - (a) exclude from the scheme any part of the area certified under that subsection; or
  - (b) declare that no scheme can be approved for the area;and before submitting for approval a scheme for an area so certified a person may, if he sees fit, apply to the High Court for general directions as to the matters proper to be included in the scheme and for a decision whether an order should be made under paragraph (a) or (b) above.
- (5) Subject to subsections (3) and (4) above, on the submission of a scheme to the High Court, the High Court shall approve the scheme either as originally submitted or with any modifications proposed or agreed to by the applicant for the scheme, if the scheme (with those modifications, if any) appears to the court to be fair and practicable and not to give the landlord a degree of control out of proportion to that previously exercised by him or to that required for the purposes of the scheme; and the High Court shall not dismiss an application for the approval of a scheme, unless either—
  - (a) the Court makes an order under subsection (4)(b) above; or
  - (b) in the opinion of the Court the applicant is unwilling to agree to a suitable scheme or is not proceeding in the matter with due despatch.
- (6) A scheme under this section may make different provision for different parts of the area, and shall include provision for terminating or varying all or any of the provisions of the scheme, or excluding part of the area, if a change of circumstances makes it appropriate, or for enabling it to be done by or with the approval of the High Court.
- (7) Except as provided by the scheme, the operation of a scheme under this section shall not be affected by any disposition or devolution of the landlord's interest in the property within the area or parts of that property; but the scheme—
  - (a) shall include provision for identifying the person who is for the purposes of the scheme to be treated as the landlord for the time being; and

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- (b) may include provision for transferring, or allowing the landlord for the time being to transfer, all or any of the powers and rights conferred by the scheme on the landlord for the time being to a local authority or other body, including a body constituted for the purpose.

In the following provisions of this section references to the landlord for the time being shall have effect, in relation to powers and rights transferred to a local authority or other body as contemplated by paragraph (b) above, as references to that authority or body.

- (8) Without prejudice to any other provision of this section, a scheme under it may provide for all or any of the following matters:—
  - (a) for regulating the redevelopment, use or appearance of property of which tenants have acquired the landlord's interest under this Part of this Act; and
  - (b) for empowering the landlord for the time being to carry out work for the maintenance or repair of any such property or carry out work to remedy a failure in respect of any such property to comply with the scheme, or for making the operation of any provisions of the scheme conditional on his doing so or on the provision or maintenance by him of services, facilities or amenities of any description; and
  - (c) for imposing on persons from time to time occupying or interested in any such property obligations in respect of maintenance or repair of the property or of property used or enjoyed by them in common with others, or in respect of cost incurred by the landlord for the time being on any matter referred to in this paragraph or in paragraph (b) above;
  - (d) for the inspection from time to time of any such property on behalf of the landlord for the time being, and for the recovery by him of sums due to him under the scheme in respect of any such property by means of a charge on the property;

and the landlord for the time being shall have, for the enforcement of any charge imposed under the scheme, the same powers and remedies under the <sup>M27</sup>Law of Property Act 1925 and otherwise as if he were a mortgagee by deed having powers of sale and leasing and of appointing a receiver.

- (9) A scheme under this section may extend to property in which the landlord's interest is disposed of otherwise than under this Part of this Act (whether residential property or not), so as to make that property, or allow it to be made, subject to any such provision as is or might be made by the scheme for property in which tenants acquire the landlord's interest under this Part of this Act.
- (10) A certificate given or scheme approved under this section [<sup>F119</sup>shall (notwithstanding section 2(a) or (b) of the <sup>M28</sup>Local Land Charges Act 1975) be a local land charge and for the purposes of that Act the landlord for the area to which it relates shall be treated as the originating authority as respects such charge; and where a scheme is registered in the <sup>F120</sup>... local land charges register]—
  - (a) the provisions of the scheme relating to property of any description shall, so far as they respectively affect the persons from time to time occupying or interested in that property, be enforceable by the landlord for the time being against them, as if each of them had covenanted with the landlord for the time being to be bound by the scheme; and
  - (b) in relation to a house and premises in the area section 10 above shall have effect subject to the provisions of the scheme, and the price payable under section 9 shall be adjusted accordingly.

*Status: Point in time view as at 12/04/2015.*

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[<sup>F121</sup>(10A) Section 10 of the Local Land Charges Act 1975 shall not apply in relation to schemes which, by virtue of this section, are local land charges.]

(11) Subject to subsections (12) and (13) below, a certificate shall not be given nor a scheme approved under this section for any area except on the application of the landlord.

(12) Where, on a joint application made by two or more persons as landlords of neighbouring areas, it appears to the Minister—

- (a) that a certificate could in accordance with subsection (1) above be given as regards those areas, treated as a unit, if the interests of those persons were held by a single person; and
- (b) that the applicants are willing to be bound by any scheme to co-operate in the management of their property in those areas and in the administration of the scheme;

the Minister may give a certificate under this section for those areas as a whole; and where a certificate is given by virtue of this subsection, this section shall apply accordingly, but so that any scheme made by virtue of the certificate shall be made subject to conditions (enforceable in such manner as may be provided by the scheme) for securing that the landlords and their successors co-operate as aforesaid.

(13) Where it appears to the Minister—

- (a) that a certificate could be given under this section for any area or areas on the application of the landlord or landlords; and
- (b) that any body of persons is so constituted as to be capable of representing for purposes of this section the persons occupying or interested in property in the area or areas (other than the landlord or landlords), or such of them as are or may become entitled to acquire their landlord's interest under this Part of this Act, and is otherwise suitable;

then on an application made by that body either alone or jointly with the landlord or landlords a certificate may be granted accordingly; and where a certificate is so granted, whether to a representative body alone or to a representative body jointly with the landlord or landlords,—

- (i) an application for a scheme in pursuance of the certificate may be made by the representative body alone or by the landlord or landlords alone or by both jointly and, by leave of the High Court, may be proceeded with by the representative body or by the landlord or landlords though not the applicant or applicants; and
- (ii) without prejudice to subsection (7)(b) above, the scheme may, with the consent of the landlord or landlords or on such terms as to compensation or otherwise as appear to the High Court to be just, confer on the representative body any such rights or powers under the scheme as might be conferred on the landlord or landlords for the time being, or enable the representative body to participate in the administration of the scheme or in the management by the landlord or landlords of his or their property in the area or areas.

(14) Where a certificate under this section has been given for an area, or an application for one is pending, then subject to subsection (15) below if (before or after the making of the application or the giving of the certificate) a tenant of a house in the area gives notice of his desire to have the freehold under this Part of this Act,—

- (a) no further proceedings need be taken in relation to the notice beyond those which appear to the landlord to be reasonable in the circumstances; but



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- (b) the tenant may at any time withdraw the notice by a further notice in writing given to the landlord, and section 9(4) above shall not apply to require him to make any payment to the landlord in respect of costs incurred by reason of the notice withdrawn.
- (15) Subsection (14) above shall cease to have effect by virtue of an application for a certificate if the application is withdrawn or the certificate refused, and shall cease to have effect as regards the whole or part of an area to which a certificate relates—
- (a) on the approval of a scheme for the area or that part of it; or
  - (b) on the expiration of one year from the giving of the certificate without an application having been made to the High Court for the approval of a scheme for the area or that part of it, or on the withdrawal of an application so made without a scheme being approved; or
  - (c) on an order made under subsection (4) above with respect to the area or that part of it, or an order dismissing an application for the approval of a scheme for the area or that part of it, becoming final.

#### Textual Amendments

**F119** Words substituted by [Local Land Charges Act 1975 \(c. 76\), Sch. 1](#)

**F120** Word in [s. 19\(10\)](#) omitted (12.4.2015) by virtue of [Infrastructure Act 2015 \(c. 7\), s. 57\(5\)\(e\), Sch. 5 para. 32](#) (with [Sch. 5 Pt. 4](#))

**F121** [S. 19\(10A\)](#) inserted by [Local Land Charges Act 1975 \(c. 76\), Sch. 1](#)

#### Modifications etc. (not altering text)

**C11** Reference to Minister of Housing and Local Government to be construed as reference to Secretary of State: [S.I. 1970/1681, art. 6\(3\)](#)

**C12** [S. 19](#) modified by [Housing Act 1974 \(c. 44\), s. 118\(2\)](#)

#### Marginal Citations

**M27** [1925 c. 20.](#)

**M28** [1975 c. 76.](#)

*Determination of questions, procedure, etc.*

## 20 Jurisdiction and special powers of county court. **E+W**

- (1) Subject to section 115 of the <sup>M29</sup>County Courts Act 1959, any jurisdiction expressed to be conferred on the court by this Part of this Act shall, unless the contrary intention appears, be exercised by the county court.
- (2) Except as provided by this section and section 21 below, there shall also be brought in the county court any proceedings under this Part of this Act of the following descriptions:—
  - (a) proceedings for determining whether a person is entitled to acquire the freehold or an extended lease of a house and premises, or to what property his right extends;
  - (b) proceedings for determining what provisions ought to be contained in a conveyance in accordance with section 10 or 29(1), or in a lease granting a new tenancy under section 14;

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- (c) any other proceedings relating to the performance or discharge of obligations arising out of a tenant's notice of his desire to have the freehold or an extended lease, including proceedings for the recovery of damages or compensation in the event of the obligations not being performed;
  - (d) any proceedings for determining the amount of a sub-tenant's share under Schedule 2 to this Act in compensation payable to a tenant under section 17 or 18, or for establishing or giving effect to his right to it.
- (3) Where in connection with any acquisition by a tenant of the freehold or an extended lease under this Part of this Act it is necessary to apportion between the house and premises (or part of them) and other property the rent payable under his tenancy or any superior or reversionary tenancy, then, subject to section 115 of the County Courts Act 1959 and to section 21 below, the apportionment shall be made by the county court.
- (4) Where it is made to appear to the court that the landlord or the tenant has been guilty of any unreasonable delay or default in the performance of obligations arising from a tenant's notice of his desire to have the freehold or an extended lease under this Part of this Act, then (without prejudice to any right to damages) the court may—
  - (a) by order revoke or vary, and direct repayment of sums paid under, any provision made by a previous order as to payment of the costs of proceedings in the court in relation to the matter, or, where costs have not been awarded, award costs;
  - (b) certify particulars of the delay or default to the [<sup>F122</sup>Upper Tribunal] with a view to enabling the Tribunal to exercise a like discretion in relation to costs of proceedings before the Tribunal.
- [<sup>F123</sup>(4A) Where the court certifies particulars of delay or default to the [<sup>F124</sup>Upper Tribunal] under subsection (4)(b) above, the [<sup>F124</sup>Upper Tribunal] may make any order as to costs of proceedings before the [<sup>F124</sup>Upper Tribunal] which the court may make in relation to proceedings in the court.]
- (5) Where a person gives notice of his desire to have the freehold or to have an extended lease of a house and premises under this Part of this Act, and the notice either is set aside by the court or withdrawn, or ceases to have effect, or would, if valid, cease to have effect, then if it is made to appear to the court—
  - (a) that the notice was not given in good faith; or
  - (b) that the person giving the notice attempted in any material respect to support it by misrepresentation or the concealment of material facts;the court may, on the application of the landlord, order that person to pay to the landlord such sum as appears sufficient as compensation for damage or loss sustained by the landlord as the result of the giving of the notice.
- (6) In any case where under subsection (5) above the court has power, on the application of the landlord, to order a person to make a payment to the landlord, the court (whether or not it makes an order under that subsection) may, on the application of the landlord, order that any further notice given by that person under this Part of this Act of his desire to have the freehold or an extended lease of the same house or any part of it, with or without other property, shall be void if given within the five years beginning with the date of the order.
- (7) Subsection (2)(c) above shall not prevent the bringing of proceedings in a court other than the county court where the claim is for damages or pecuniary compensation only.

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### Textual Amendments

- F122** Words in s. 20(4)(b) substituted (1.6.2009) by [The Transfer of Tribunal Functions \(Lands Tribunal and Miscellaneous Amendments\) Order 2009 \(S.I. 2009/1307\)](#), art. 1, **Sch. 1 para. 83** (with Sch. 5)
- F123** S. 20(4A) inserted (30.9.2003 for E., 30.3.2004 for W.) by [Commonhold and Leasehold Reform Act 2002 \(c. 15\)](#), s. 181(1), **Sch. 13 para. 4**; S.I. 2003/1986, art. 2(c)(i) (with Sch. 2); S.I. 2004/669, art. 2(c)(i) (with Sch. 2)
- F124** Words in s. 20(4A) substituted (1.6.2009) by [The Transfer of Tribunal Functions \(Lands Tribunal and Miscellaneous Amendments\) Order 2009 \(S.I. 2009/1307\)](#), art. 1, **Sch. 1 para. 83** (with Sch. 5)

### Marginal Citations

- M29** 1959 c. 22.

## 21 Jurisdiction of <sup>F125</sup>[<sup>F126</sup>... tribunals] . **E+W**

- (1) The following matters shall, in default of agreement, be determined by [<sup>F127</sup>the appropriate tribunal] namely,—
- (a) the price payable for a house and premises under section 9 above;
  - (b) the amount of the rent to be payable (whether originally or on a revision) for a house and premises in accordance with section 15(2);
  - [<sup>F128</sup>(ba) the amount of any costs payable under section 9(4) or 14(2);]
  - (c) the amount of any compensation payable to a tenant under section 17 or 18 for the loss of a house and premises.
  - [<sup>F129</sup>(cza) the amount of the appropriate sum to be paid into court under section 27(5);]
  - [<sup>F130</sup>(ca) the amount of any compensation payable under section 27A;]
- <sup>F131</sup>(1A) . . . . .
- (1B) No application may be made to [<sup>F132</sup>the appropriate tribunal] under subsection (1) above to determine the price for a house and premises unless either—
- (a) the landlord has informed the tenant of the price he is asking; or
  - (b) two months have elapsed without his doing so since the tenant gave notice of his desire to have the freehold under this Part of this Act.
- (2) Notwithstanding section 20(2) or (3) above, [<sup>F133</sup>the appropriate tribunal] shall have jurisdiction, either by agreement or in a case where an application is made to [<sup>F134</sup>a tribunal] under subsection (1) above with reference to the same transaction,—
- (a) to determine what provisions ought to be contained in a conveyance in accordance with section 10 or 29(1) of this Act, or in a lease granting a new tenancy under section 14; or
  - (b) to apportion between the house and premises (or part of them) and other property the rent payable under any tenancy; or
  - (c) to determine the amount of a sub-tenant's share under Schedule 2 to this Act in compensation payable to a tenant under section 17 or 18.
- [<sup>F135</sup>(2A) For the purposes of this Part of this Act a matter is to be treated as determined by (or on appeal from) [<sup>F136</sup>the appropriate tribunal]—
- (a) if the decision on the matter is not appealed against, at the end of the period for bringing an appeal; or
  - (b) if that decision is appealed against, at the time when the appeal is disposed of.

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- (2B) An appeal is disposed of—
- (a) if it is determined and the period for bringing any further appeal has ended; or
  - (b) if it is abandoned or otherwise ceases to have effect.]

F137(3) .....

F137(4) .....

F137(4A) .....

F138(5) .....

### Textual Amendments

- F125** Words in s. 21 heading omitted (1.7.2013) by virtue of [The Transfer of Tribunal Functions Order 2013 \(S.I. 2013/1036\)](#), art. 1, **Sch. 1 para. 6(a)** (with Sch. 3)
- F126** Words in s. 21 heading substituted (1.6.2009) by [The Transfer of Tribunal Functions \(Lands Tribunal and Miscellaneous Amendments\) Order 2009 \(S.I. 2009/1307\)](#), art. 1, **Sch. 1 para. 84** (with Sch. 5)
- F127** Words in s. 21(1) substituted (1.7.2013) by [The Transfer of Tribunal Functions Order 2013 \(S.I. 2013/1036\)](#), art. 1, **Sch. 1 para. 6(b)** (with Sch. 3)
- F128** S. 21(1)(ba) inserted (1.10.1996) by 1996 c. 52, s. 115; S.I. 1996/2212, **arts. 1(2), 2(2)** (with Sch.)
- F129** S. 21(1)(cza) inserted (30.9.2003 for E., 30.3.2004 for W.) by [Commonhold and Leasehold Reform Act 2002 \(c. 15\)](#), **ss. 149(2), 181(1)**; S.I. 2003/1986, art. 2(c)(i) (with Sch. 2); S.I. 2004/669, art. 2(c)(i) (with Sch. 2)
- F130** S. 21(1)(ca) inserted (1.10.1996) by 1996 c. 52, s. 116, **Sch. 11 para. 1(2)**; S.I. 1996/2212, **arts. 1(2), 2(2)** (with Sch.)
- F131** S. 21(1A) repealed (30.9.2003 for E., 30.3.2004 for W.) by [Commonhold and Leasehold Reform Act 2002 \(c. 15\)](#), s. 181(1), **Sch. 14**; S.I. 2003/1986, art. 2(c)(iv), Sch. 1 Pt. 1 (with Sch. 2); S.I. 2004/669, art. 2(c)(iv), Sch. 1 Pt. 1 (with Sch. 2)
- F132** Words in s. 21(1B) substituted (1.7.2013) by [The Transfer of Tribunal Functions Order 2013 \(S.I. 2013/1036\)](#), art. 1, **Sch. 1 para. 6(b)** (with Sch. 3)
- F133** Words in s. 21(2) substituted (1.7.2013) by [The Transfer of Tribunal Functions Order 2013 \(S.I. 2013/1036\)](#), art. 1, **Sch. 1 para. 6(b)** (with Sch. 3)
- F134** Words substituted by [Housing Act 1980 \(c. 51\)](#), **Sch. 22 para. 8(3)**
- F135** S. 21(2A)(2B) inserted (30.9.2003 for E., 30.3.2004 for W.) by [Commonhold and Leasehold Reform Act 2002 \(c. 15\)](#), s. 181(1), **Sch. 13 para. 5**; S.I. 2003/1986, art. 2(c)(i) (with Sch. 2); S.I. 2004/669, art. 2(c)(i) (with Sch. 2)
- F136** Words in s. 21(2A) substituted (1.7.2013) by [The Transfer of Tribunal Functions Order 2013 \(S.I. 2013/1036\)](#), art. 1, **Sch. 1 para. 6(b)** (with Sch. 3)
- F137** S. 21(3)-(4A) repealed (30.9.2003 for E., 30.3.2004 for W.) by [Commonhold and Leasehold Reform Act 2002 \(c. 15\)](#), s. 181(1), **Sch. 14**; S.I. 2003/1986, art. 2(c)(iv), Sch. 1 Pt. 1 (with Sch. 2); S.I. 2004/669, art. 2(c)(iv), Sch. 1 Pt. 1 (with Sch. 2)
- F138** S. 21(5) repealed by [Housing Act 1980 \(c. 51\)](#), **Sch. 26**

### Modifications etc. (not altering text)

- C13** S. 21(1)-(3) amended by [Housing Act 1980 \(c. 51\)](#), s. 142

## 22 Validity of tenants' notices, effect on Landlord and Tenant Act 1954 and on notices to quit etc., and procedure generally. **E+W**

- (1) The provisions of Schedule 3 to this Act shall have effect—

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- (a) to exclude a tenant's right to acquire the freehold or an extended lease under this Part of this Act if a notice of his desire to have it is given too late; and
  - (b) to make a notice of a person's desire to have the freehold or an extended lease under this Part of this Act effectual where apart from the notice the tenancy would or might terminate by forfeiture or otherwise; and
  - (c) for adapting the procedure under Parts I and II of the <sup>M30</sup>Landlord and Tenant Act 1954, and for relating to one another proceedings under that Act and proceedings under this Part of this Act; and
  - [<sup>F139</sup>(cc) for adapting the procedure under Schedule 10 to the Local Government and Housing Act 1989, and for relating to one another proceedings under that Schedule and proceedings under this Part of this Act; and]
  - (d) generally for regulating the procedure under this Part of this Act.
- (2) Where a tenant having a right under this Part of this Act to acquire the freehold or an extended lease gives the landlord notice in accordance with this Part of this Act of his desire to have it, then except as otherwise provided by this Act the procedure for giving effect to the notice, and the rights and obligations of all parties in relation to the investigation of title and other matters arising in giving effect to the notice, shall be such as may be prescribed by regulations made by the Lord Chancellor by statutory instrument (which shall be subject to annulment in pursuance of a resolution of either House of Parliament), and subject to or in the absence of provision made by any such regulations as regards any matter shall be as nearly as may be the same as in the case of a contract of sale or leasing freely negotiated between the parties.
- (3) In relation to a claim to acquire the freehold, regulations under subsection (2) above may include provision—
- (a) for a sum on account of the price payable for the house and premises and landlord's costs to be deposited with the landlord or with some person as his agent or as stakeholder, and for the return or forfeiture in any prescribed circumstances of the whole or part of the sum deposited;
  - (b) for enabling or requiring the tenant in any prescribed circumstances, instead of continuing to pay rent under the tenancy, to pay sums representing interest on the price payable or, at his option, either to pay such sums as aforesaid or to pay or deposit the price payable or the balance of it;
  - (c) for any matters incidental to or arising out of the matters mentioned above;
- and in relation to any claim the regulations may provide for discharging the landlord or the tenant by reason of the other's default or delay from the obligations arising out of the claim.
- (4) In the case of a claim to acquire the freehold, subsection (2) above shall not be taken in any case as applying forms prescribed under section 46 of the <sup>M31</sup>Law of Property Act 1925 for contracts entered into by correspondence; but, without prejudice to the generality of that subsection section 49 (which provides for the determination of questions arising between vendor and purchaser) shall apply.
- (5) Section 66 of the <sup>M32</sup>Landlord and Tenant Act 1954 (which requires the prescribed form for a notice to be prescribed by regulations of the Lord Chancellor, and makes provisions as to the contents of prescribed forms and as to the service of notices) shall have effect as if any reference therein to that Act were a reference also to this Part of this Act.

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#### Textual Amendments

**F139** S. 22(1)(cc) inserted by [Local Government and Housing Act 1989 \(c. 42, SIF 75:1\)](#), s. 194(1), [Sch. 11 para. 11](#)

#### Marginal Citations

**M30** 1954 c. 56.

**M31** 1925 c. 20.

**M32** 1954 c. 56.

### Supplementary

## 23 Agreements excluding or modifying rights of tenant. **E+W**

- (1) Except as provided by this section, any agreement relating to a tenancy (whether contained in the instrument creating the tenancy or not and whether made before the creation of the tenancy or not) shall be void in so far as it purports to exclude or modify any right to acquire the freehold or an extended lease or right to compensation under this Part of this Act, or provides for the termination or surrender of the tenancy in the event of a tenant acquiring or claiming any such right or for the imposition of any penalty or disability on the tenant in that event.
- (2) Subsection (1) above shall not be taken to preclude a tenant from surrendering his tenancy, and shall not—
  - (a) invalidate any agreement for a tenant to acquire an interest superior to his tenancy or an extended lease on terms different from those provided for by this Part of this Act; or
  - (b) where a tenant has given notice of his desire to have the freehold or an extended lease under this Part of this Act, invalidate any agreement between the landlord and the tenant that that notice shall cease to be binding or any provision of such an agreement excluding or restricting for a period not exceeding [<sup>F140</sup>twelve months] the right to give a further notice of either kind with respect to the house or any part of it; or
  - (c) where a tenant's right to compensation has accrued, invalidate any agreement as to the amount of the compensation.
- (3) Where—
  - (a) a person, being entitled as tenant of a house to acquire the freehold or an extended lease under this Part of this Act, enters into an agreement without the prior approval of the court for the surrender of his tenancy, or for the acquisition by him of an interest superior to his tenancy or of any extended lease; or
  - (b) a tenancy having been extended under this Part of this Act, the tenant, on the landlord claiming possession for purposes of redevelopment, enters into an agreement without the prior approval of the court for the surrender of the tenancy;

then on the application of the tenant the county court or any court in which proceedings are brought against him on the agreement may, if in the opinion of the court he is not adequately recompensed under the agreement for his rights under this Part of this Act,

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set aside or vary the agreement and give such other relief as appears to the court to be just, having regard to the situation and conduct of the parties.

- (4) Where a tenant of a house is under this Part of this Act entitled to acquire the freehold or an extended lease, or entitled to the benefit of a previous tenant's notice of his desire to have the freehold or an extended lease, there may with the approval of the court be granted to him in satisfaction of that right a new tenancy on such terms as may be approved by the court; and, subject to [F141sections 117 to 121 of the Charities Act 2011] and to section 31 below, a tenancy may be so granted by the landlord, and shall be binding on persons entitled to any interest in or charge on the landlord's estate, notwithstanding that it would not apart from this provision be authorised as against any such persons and notwithstanding any restriction imposed by statute or otherwise on the landlord's powers of leasing:

Provided that where the existing tenancy is granted after the commencement of this Part of this Act (whether or not it is, by virtue of section 3(3) above, to be treated for other purposes as forming a single tenancy with a previous tenancy) and, the grant being subsequent to the creation of a charge on the landlord's estate, the existing tenancy is not binding on the persons interested in the charge, a tenancy so granted shall not by virtue of this subsection be binding on those persons.

- (5) Where a tenancy is granted by virtue of subsection (4) above,—
- (a) the terms of the new tenancy may exclude any right to acquire the freehold under this Part of this Act; and
  - (b) [F142section 9(1) and (1A) above,] section 14(5) and (6) above and, except in so far as provision is made to the contrary by the terms of the new tenancy, section 16(1) to (6) and section 17(1) to (3) (together with Schedule 2 to this Act and, so far as relevant, subsections (1) to (3) above) shall apply as if the new tenancy were granted by way of extension under this Part of this Act.
- (6) Where an instrument extending a tenancy at a low rent, or granting a further tenancy at a low rent in substitution for or in continuance of such a tenancy, contains a statement to the effect that by virtue of subsection (4) above the tenancy is being or has previously been extended in satisfaction of the right to an extended lease under section 14 above, the statement shall be conclusive in favour of any person not being a party to the instrument, unless the statement appears from the instrument to be untrue.
- (7) Any person who—
- (a) includes or causes to be included in an instrument a statement to the effect mentioned in subsection (6) above, knowing the statement to be untrue; or
  - (b) executes, or with intent to deceive makes use of, any instrument, knowing that it contains such a statement and that the statement is untrue;

shall be liable on conviction on indictment to imprisonment for a term not exceeding two years, or on summary conviction to imprisonment for a term not exceeding three months or to a fine not exceeding one hundred pounds or to both.

#### Textual Amendments

**F140** Words in s. 23(2)(b) substituted (26.7.2002 for E. and 1.1.2003 for W.) by 2002 c. 15, s. 139(3)(b); S.I. 2002/1912, art. 2(b)(i) (subject to transitional provisions and savings in Sch. 2 of the commencing S.I.); S.I. 2002/3012, art. 2(b)(i) (subject to transitional provisions and savings in Sch. 2 of the commencing S.I.)



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- F141** Words in s. 23(4) substituted (14.3.2012) by Charities Act 2011 (c. 25), s. 355, **Sch. 7 para. 15** (with s. 20(2), Sch. 8)
- F142** Words inserted by Housing and Planning Act 1986 (c. 63, SIF 75:1), s. 23(2)(3)

## 24 Application of price or compensation received by landlord, and charge of betterment levy on enfranchisement. **E+W**

- (1) Any sum received by the landlord by way of the price payable for a house and premises under section 9 above, or by way of compensation under any provision of this Part of this Act providing for compensation to be recovered by or awarded to a landlord,—
- (a) where the interest of the landlord is [<sup>F143</sup>subject to a trust of land] shall be dealt with as if it were proceeds of sale arising under the trust; and
- (b) where the landlord is a university or college to which the <sup>M33</sup>Universities and College Estates Act 1925 applies, shall be dealt with as if it were an amount payable as consideration on a sale effected under that Act.

<sup>F144</sup>(2) .....

### Textual Amendments

- F143** Words in s. 24(1)(a) substituted (1.1.1997) by 1996 c. 47, s. 25(1), **Sch. 3 para. 10(b)** (with ss. 24(2), 25(4)(5)); S.I. 1996/2974, **art. 2**
- F144** S. 24(2) repealed (19.11.1998) by 1998 c. 43, s. 1(1), **Sch. 1 Pt. IV** Group 2

### Marginal Citations

**M33** 1925 c. 24.

## 25 Mortgagee in possession of landlord's interest. **E+W**

- (1) Where a landlord's interest is subject to a mortgage and the mortgagee is in possession, then subject to the provisions of this section all such proceedings arising out of a person's notice of his desire to have the freehold or an extended lease under this Part of this Act as would apart from this provision be taken by or in relation to the landlord shall, as regards his interest, be conducted by and through the mortgagee as if he were the landlord, and any conveyance to be executed under section 8 of this Act or lease to be executed under section 14 shall, if it requires execution by the landlord, either be executed by the landlord by the direction of the mortgagee or be executed by the mortgagee in the name and on behalf of the landlord; but this subsection shall not affect the operation in relation to the mortgage of sections 12 and 13 above.
- (2) Where a landlord's interest is subject to a mortgage and the mortgagee is in possession, then (without prejudice to subsection (1) above) any application under section 17 above shall be made by the mortgagee as if he were the landlord, and that section and Schedule 2 to this Act shall apply accordingly.
- (3) Any compensation paid by a mortgagee in accordance with section 17 above (whether possession is obtained under that section or without an application thereunder) shall be treated as if it were secured by the mortgage, with the like priority and with interest at the same rate as the mortgage money, so however that (without prejudice to the recovery of interest) the amount shall not be recoverable from the mortgagor personally.

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- (4) Where a mortgagee is by virtue of this section acting as landlord and any case arises in which compensation may be recovered by or awarded to a landlord, compensation may be recovered by or awarded to the mortgagee accordingly, and shall be dealt with as if it were proceeds of sale of property subject to the mortgage.
- (5) Where a landlord's interest is subject to a mortgage, and a receiver appointed by the mortgagee or by the court is in receipt of the rents and profits,—
  - (a) the landlord shall not make any application under section 17 or 18 above without the consent of the mortgagee; and
  - (b) the mortgagee may by written notice given to the landlord require that this section shall apply, either generally or so far as relates to section 17 above, as if he were a mortgagee in possession.
- (6) In this section “mortgage” includes any charge or lien, and “mortgagor” and “mortgagee” shall be construed accordingly.

## 26 Person to act where landlord is custodian trustee or under disability. **E+W**

- (1) Where the interest of a landlord in any property is vested in a person as custodian trustee, the managing trustees or committee of management shall be deemed to be the landlord for the purposes of this Part of this Act and the interest be deemed to be vested in them, except as regards the execution of any instrument disposing of or affecting that interest.
- [<sup>F145</sup>(2) Where a landlord lacks capacity (within the meaning of the Mental Capacity Act 2005) to exercise his functions as a landlord, those functions are to be exercised—
  - (a) by a donee of an enduring power of attorney or lasting power of attorney (within the meaning of the 2005 Act), or a deputy appointed for him by the Court of Protection, with power to exercise those functions, or
  - (b) if no donee or deputy has that power, by a person authorised in that respect by that court.]

### Textual Amendments

**F145** S. 26(2) substituted (1.10.2007) by [Mental Capacity Act 2005 \(c. 9\)](#), s. 68(1), [Sch. 6 para. 13\(1\)](#) (with ss. 27-29, 62, [Sch. 6 para. 13\(2\)](#)); [S.I. 2007/1897](#), art. 2(1)(d)

## 27 Enfranchisement where landlord cannot be found. **E+W**

- (1) Where a tenant of a house having a right under this Part of this Act to acquire the freehold is prevented from giving notice of his desire to have the freehold because the person to be served with the notice cannot be found, or his identity cannot be ascertained, then on an application made by the tenant [<sup>F146</sup>the court] may, subject to and in accordance with the provisions of this section, make such order as [<sup>F147</sup>the court] thinks fit with a view to the house and premises being vested in him, his executors, administrators or assigns for the like estate and on the like terms (so far as the circumstances permit) as if he had at the date of his application to [<sup>F146</sup>the court] given notice of his desire to have the freehold.
- (2) Before making any such order [<sup>F148</sup>the court] may require the applicant to take such further steps by way of advertisement or otherwise as [<sup>F149</sup>the court] thinks proper for the purpose of tracing the landlord; and if after an application is made to [<sup>F148</sup>the

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- court] and before the house and premises are vested in pursuance of the application the landlord is traced, then no further proceedings shall be taken with a view to the house and premises being so vested, but subject to subsection (7) below—
- (a) the rights and obligations of all parties shall be determined as if the applicant had, at the date of the application, duly given notice of his desire to have the freehold; and
  - (b) [<sup>F148</sup>the court] may give such directions as [<sup>F149</sup>the court] thinks fit as to the steps to be taken for giving effect to those rights and obligations, including directions modifying or dispensing with any of the requirements of this Act or of regulations made under this Act.
- (3) Where a house and premises are to be vested in a person in pursuance of an application under this section, then on his paying into [<sup>F150</sup>court] the appropriate sum there shall be executed by such person as the [<sup>F151</sup>court] may designate a conveyance in a form approved by the [<sup>F151</sup>court] and containing such provisions as may be so approved for the purpose of giving effect so far as possible to the requirements of section 10 above; and that conveyance shall be effective to vest in the person to whom the conveyance is made the property expressed to be conveyed, subject as and in the manner in which it is expressed to be conveyed.
- (4) For the purpose of any conveyance to be executed in accordance with subsection (3) above, any question as to the property to be conveyed and the rights with or subject to which it is to be conveyed shall be determined by the [<sup>F152</sup>court], but it shall be assumed (unless the contrary is shown) that the landlord has no interest in property other than the property to be conveyed and, for the purpose of excepting them from the conveyance, any underlying minerals.
- [<sup>F153</sup>(5) The appropriate sum which, in accordance with subsection (3) above, is to be paid into court is the aggregate of—
- (a) such amount as may be determined by (or on appeal from) [<sup>F154</sup>the appropriate tribunal] to be the price payable in accordance with section 9 above; and
  - (b) the amount or estimated amount (as so determined) of any pecuniary rent payable for the house and premises up to the date of the conveyance which remains unpaid.]
- (6) Where a house and premises are vested in a person in accordance with this section, the payment into [<sup>F155</sup>court] of the appropriate sum shall be taken to have satisfied any claims against the tenant, his executors, administrators or assigns in respect of the price payable under this Part of this Act for the acquisition of the freehold in the house and premises.
- (7) An application under this section may be withdrawn at any time before execution of a conveyance under subsection (3) above and, after it is withdrawn, subsection (2)(a) shall not apply; but where any step is taken (whether by the landlord or the tenant) for the purpose of giving effect to subsection (2)(a) in the case of any application, the application shall not afterwards be withdrawn except with the landlord's consent or by leave of [<sup>F156</sup>the court], and [<sup>F156</sup>the court] shall not give leave unless it appears to [<sup>F157</sup>the court] just to do so by reason of matters coming to the knowledge of the applicant in consequence of the landlord being traced.
- (8) A conveyance executed under subsection (3) above shall have effect as provided by that subsection notwithstanding any interest of the Crown in the property expressed to be conveyed.

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### Textual Amendments

- F146** Words in s. 27(1) substituted (30.9.2003 for E., 30.3.2004 for W.) by [Commonhold and Leasehold Reform Act 2002 \(c. 15\)](#), [ss. 148\(2\)\(a\)](#), 181(1); S.I. 2003/1986, art. 2(c)(i) (with Sch. 2); S.I. 2004/669, art. 2(c)(i) (with Sch. 2)
- F147** Words in s. 27(1) substituted (30.9.2003 for E., 30.3.2004 for W.) by [Commonhold and Leasehold Reform Act 2002 \(c. 15\)](#), [ss. 148\(2\)\(b\)](#), 181(1); S.I. 2003/1986, art. 2(c)(i) (with Sch. 2); S.I. 2004/669, art. 2(c)(i) (with Sch. 2)
- F148** Words in s. 27(2) substituted (30.9.2003 for E., 30.3.2004 for W.) by [Commonhold and Leasehold Reform Act 2002 \(c. 15\)](#), [ss. 148\(3\)\(a\)](#), 181(1); S.I. 2003/1986, art. 2(c)(i) (with Sch. 2); S.I. 2004/669, art. 2(c)(i) (with Sch. 2)
- F149** Words in s. 27(2) substituted (30.9.2003 for E., 30.3.2004 for W.) by [Commonhold and Leasehold Reform Act 2002 \(c. 15\)](#), [ss. 148\(3\)\(b\)](#), 181(1); S.I. 2003/1986, art. 2(c)(i) (with Sch. 2); S.I. 2004/669, art. 2(c)(i) (with Sch. 2)
- F150** Word in s. 27(3) substituted (30.9.2003 for E., 30.3.2004 for W.) by [Commonhold and Leasehold Reform Act 2002 \(c. 15\)](#), [ss. 148\(4\)\(a\)](#), 181(1); S.I. 2003/1986, art. 2(c)(i) (with Sch. 2); S.I. 2004/669, art. 2(c)(i) (with Sch. 2)
- F151** Word in s. 27(3) substituted (30.9.2003 for E., 30.3.2004 for W.) by [Commonhold and Leasehold Reform Act 2002 \(c. 15\)](#), [ss. 148\(4\)\(b\)](#), 181(1); S.I. 2003/1986, art. 2(c)(i) (with Sch. 2); S.I. 2004/669, art. 2(c)(i) (with Sch. 2)
- F152** Word in s. 27(4) substituted (30.9.2003 for E., 30.3.2004 for W.) by [Commonhold and Leasehold Reform Act 2002 \(c. 15\)](#), [ss. 148\(5\)](#), 181(1); S.I. 2003/1986, art. 2(c)(i) (with Sch. 2); S.I. 2004/669, art. 2(c)(i) (with Sch. 2)
- F153** S. 27(5) substituted (30.9.2003 for E., 30.3.2004 for W.) by [Commonhold and Leasehold Reform Act 2002 \(c. 15\)](#), [ss. 149\(1\)](#), 181(1); S.I. 2003/1986, art. 2(c)(i) (with Sch. 2); S.I. 2004/669, art. 2(c)(i) (with Sch. 2)
- F154** Words in s. 27(5)(a) substituted (1.7.2013) by [The Transfer of Tribunal Functions Order 2013 \(S.I. 2013/1036\)](#), art. 1, [Sch. 1 para. 7](#) (with Sch. 3)
- F155** Word in s. 27(6) substituted (30.9.2003 for E., 30.3.2004 for W.) by [Commonhold and Leasehold Reform Act 2002 \(c. 15\)](#), [ss. 148\(6\)](#), 181(1); S.I. 2003/1986, art. 2(c)(i) (with Sch. 2); S.I. 2004/669, art. 2(c)(i) (with Sch. 2)
- F156** Words in s. 27(7) substituted (30.9.2003 for E., 30.3.2004 for W.) by [Commonhold and Leasehold Reform Act 2002 \(c. 15\)](#), [ss. 148\(7\)\(a\)](#), 181(1); S.I. 2003/1986, art. 2(c)(i) (with Sch. 2); S.I. 2004/669, art. 2(c)(i) (with Sch. 2)
- F157** Words in s. 27(7) substituted (30.9.2003 for E., 30.3.2004 for W.) by [Commonhold and Leasehold Reform Act 2002 \(c. 15\)](#), [ss. 148\(7\)\(b\)](#), 181(1); S.I. 2003/1986, art. 2(c)(i) (with Sch. 2); S.I. 2004/669, art. 2(c)(i) (with Sch. 2)

### [<sup>F158</sup>27A Compensation for postponement of termination in connection with ineffective claims. **E+W**

- (1) This section applies where, on or after 15th January 1999—
- (a) a tenant of any property makes a claim to acquire the freehold or an extended lease of it, and
  - (b) the claim is not made at least two years before the term date of the tenancy in respect of which the claim is made (“the existing tenancy”).
- (2) The tenant shall be liable to pay compensation if the claim is not effective and—
- (a) the making of the claim caused a notice served under paragraph 4(1) of Schedule 10 to the <sup>M34</sup>Local Government and Housing Act 1989 to cease to

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- have effect and the date on which the claim ceases to have effect is later than four months before the termination date specified in the notice,
- (b) the making of the claim prevented the service of an effective notice under paragraph 4(1) of Schedule 10 to the Local Government and Housing Act 1989 (but did not cause a notice served under that provision to cease to have effect) and the date on which the claim ceases to have effect is a date later than six months before the term date of the tenancy, or
  - (c) the existing tenancy is continued under paragraph 3(1) of Schedule 3 to this Act by virtue of the claim.
- (3) Compensation under subsection (2) above shall become payable at the end of the appropriate period and be the right of the person who is the tenant's immediate landlord at that time.
- (4) The amount which the tenant is liable to pay under subsection (2) above shall be equal to the difference between—
- (a) the rent for the appropriate period under the existing tenancy, and
  - (b) the rent which might reasonably be expected to be payable for that period were the property to which the existing tenancy relates let for a term equivalent to that period on the open market by a willing landlord on the following assumptions—
    - (i) that no premium is payable in connection with the letting,
    - (ii) that the letting confers no security of tenure, and
    - (iii) that, except as otherwise provided by this paragraph, the letting is on the same terms as the existing tenancy.
- (5) For the purposes of subsection (2) above, a claim to acquire the freehold or an extended lease is not effective if it ceases to have effect for any reason other than—
- (a) the acquisition in pursuance of the claim of the interest to which it relates, or
  - (b) the lapsing of the claim under any provision of this Act excluding the tenant's liability for costs.
- (6) For the purposes of subsections (3) and (4) above, the appropriate period is—
- (a) in a case falling within paragraph (a) of subsection (2) above, the period—
    - (i) beginning with the termination date specified in the notice mentioned in that paragraph, and
    - (ii) ending with the earliest date of termination which could have been specified in a notice under paragraph 4(1) of Schedule 10 to the <sup>M35</sup>Local Government and Housing Act 1989 served immediately after the date on which the claim ceases to have effect, or, if the existing tenancy is terminated before then, with the date of its termination;
  - (b) in a case falling within paragraph (b) of subsection (2) above, the period—
    - (i) beginning with the later of six months from the date on which the claim is made and the term date of the existing tenancy, and
    - (ii) ending six months after the date on which the claim ceases to have effect, or, if the existing tenancy is terminated before then, with the date of its termination; and
  - (c) in a case falling within paragraph (c) of subsection (2) above, the period for which the existing tenancy is continued under paragraph 3(1) of Schedule 3 to this Act.

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- (7) For the purposes of this section—
- (a) references to a claim to acquire the freehold or an extended lease shall be taken as references to a notice of a person’s desire to acquire it under Part I of this Act and as including a claim made by a tenant not entitled to acquire it, and
  - (b) references to the date on which a claim ceases to have effect shall, in relation to a notice which is not a valid notice, be taken as references to the date on which the notice is set aside by the court or withdrawn or would, if valid, cease to have effect, that date being taken, where the notice is set aside, or would (if valid) cease to have effect, in consequence of a court order, to be the date when the order becomes final.]

#### Textual Amendments

**F158** S. 27A inserted (1.10.1996) by 1996 c. 52, s. 116, **Sch. 11 para. 1(1)**; S.I. 1996/2212, **arts. 1(2), 2(2)** (with Sch.)

#### Marginal Citations

**M34** 1989 c. 42.  
**M35** 1989 c. 42.

#### [<sup>F159</sup>27B Modification of section 27A where change in immediate reversion. **E+W**]

- (1) Where a tenant’s liability to pay compensation under section 27A above relates to a period during which there has been a change in the interest immediately expectant on the determination of his tenancy, that section shall have effect with the following modifications.
- (2) For subsections (3) and (4) there shall be substituted—
  - (“ Compensation under subsection (2) above shall become payable at the end of the appropriate period and there shall be a separate right to compensation in respect of each of the interests which, during that period, have been immediately expectant on the determination of the existing tenancy.
- (4) Compensation under subsection (2) above shall—
  - (a) in the case of the interest which is immediately expectant on the determination of the existing tenancy at the end of the appropriate period, be the right of the person in whom that interest is vested at that time, and
  - (b) in the case of an interest which ceases during the appropriate period to be immediately expectant on the determination of the existing tenancy, be the right of the person in whom the interest was vested immediately before it ceased to be so expectant.
- (4A) The amount which the tenant is liable to pay under subsection (2) above in respect of any interest shall be equal to the difference between—
  - (a) the rent under the existing tenancy for the part of the appropriate period during which the interest was immediately expectant on the determination of that tenancy, and
  - (b) the rent which might reasonably be expected to be payable for that part of that period were the property to which the existing tenancy relates let for a term

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equivalent to that part of that period on the open market by a willing landlord on the following assumptions—

- (i) that no premium is payable in connection with the letting,
- (ii) that the letting confers no security of tenure, and
- (iii) that, except as otherwise provided by this paragraph, the letting is on the same terms as the existing tenancy.”

(3) In subsection (6), for “(3) and (4)” there shall be substituted “(3) to (4A)”.]

#### Textual Amendments

**F159** S. 27B inserted (1.10.1996) by 1996 c. 52, s. 116, Sch. 11 para. 1(1); S.I. 1996/2212, arts. 1(2), 2(2) (with Sch.)

*Land held for public purposes, ecclesiastical land, etc.*

## 28 Retention or resumption of land required for public purposes. **E+W**

(1) Where the landlord of any property is a body to which this section applies, and a Minister of the Crown certifies that the property will in ten years or less be required for relevant development, then—

- (a) a notice of a person’s desire to have the freehold or an extended lease under this Part of this Act of a house comprised in the property shall be of no effect;
- (b) if the tenancy of any such house has not been extended under this Part of this Act, but the tenant, being entitled to acquire the freehold or an extended lease thereunder, either—
  - (i) before a copy of the certificate has been served on him, has given notice of his desire to have the freehold or an extended lease; or
  - (ii) not later than two months after a copy of the certificate is served on him, gives the landlord written notice, in the prescribed form, claiming to be so entitled;

then section 17 above shall apply as if the tenancy had been so extended;

- (c) for the purposes of any application by the landlord under section 17 above in relation to property comprised in the certificate (whether the application is made by virtue of paragraph (b) above or otherwise), the certificate shall be conclusive that the ground specified in section 17(1) is established.

(2) Where by virtue of subsection (1)(b) above a tenancy of any property is to be treated as having been extended, then as regards that property the tenancy shall not terminate either by effluxion of time or in pursuance of any notice given by the landlord or the tenant or by the termination of a superior tenancy.

(3) In the case of a tenancy to which Part II of the <sup>M36</sup>Landlord and Tenant Act 1954 applies, subsections (1) and (2) above shall have effect where a certificate is given under section 57 of that Act as they have effect where a certificate is given under this section; but where by virtue of subsection (1)(b) above a tenancy is to be treated as having been extended, no compensation shall be payable under section 59 of that Act in respect of the tenancy or any immediate or derivative sub-tenancy.

(4) A Minister shall not give a certificate under this section with respect to any house, unless the landlord has given to the tenant of the house written notice stating—



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- (a) that the question of giving such a certificate is under consideration by that Minister; and
- (b) that if within twenty-one days of the giving of the notice the tenant makes to that Minister representations in writing with respect to that question, they will be considered before the question is determined;

and if the tenant makes any such representations within those twenty-one days the Minister shall consider them before determining whether to give the certificate.

(5) This section applies—

- (a) to any local authority, that is to say, the Mayor and commonalty and citizens of the City of London, . . . <sup>F160</sup> any county council, borough council or district council [<sup>F161</sup> . . . <sup>F162</sup>, any joint authority established by Part IV of the Local Government Act 1985], [<sup>F163</sup> any economic prosperity board established under section 88 of the Local Democracy, Economic Development and Construction Act 2009, any combined authority established under section 103 of that Act,]<sup>F164</sup> any authority established for an area in England by an order under section 207 of the Local Government and Public Involvement in Health Act 2007 (joint waste authorities), [<sup>F165</sup> the London Fire and Emergency Planning Authority,] any joint board in which all the constituent authorities are local authorities within this paragraph <sup>F166</sup> . . . [<sup>F167</sup> any <sup>F168</sup> police and crime commissioner and the Mayor's Office for Policing and Crime]; and]
  - <sup>F169</sup>(aa) to the Broads Authority; and]
  - <sup>F170</sup>(ab) to any National Park authority; and]
  - (b) to the [<sup>F171</sup> new towns residuary body] and to any development corporation within the meaning of [<sup>F172</sup> the <sup>M37</sup> New Towns Act 1981]; and
  - <sup>F173</sup>(bb) to the Development Board for Rural Wales];
  - <sup>F174</sup>(bc) . . . . .
  - (c) to any university body, that is to say, any university, university college or college of a university, and for this purpose “college of a university” includes, in the case of a university organised on a collegiate basis, a constituent college or other society recognised by the university and, in the case of London University, a college incorporated in the university or a school of the university; and
  - <sup>F175</sup>(d) to [<sup>F176</sup> the National Health Service Commissioning Board, any clinical commissioning group,]<sup>F177</sup> . . . any [<sup>F178</sup> <sup>F179</sup> Local Health Board], any Special Health Authority]<sup>F180</sup> . . . [<sup>F181</sup>, any National Health Service trust and any NHS foundation trust]; and]
  - (e) to any body corporate established by or under any enactment for the purpose of carrying on under national ownership any industry or part of an industry or undertaking; and
  - <sup>F182</sup>(ee) to the National Rivers Authority;]
  - (f) to any body not included above which is a harbour authority within the meaning of the <sup>M38</sup> Harbours Act 1964 . . . <sup>F183</sup>, but in respect only of the body's functions as harbour authority . . . <sup>F183</sup>.
  - <sup>F184</sup>(g) a housing action trust established under Part III of the Housing Act 1988.]

(6) In subsection (1) above “relevant development”, in relation to any body to which this section applies, means development for purposes (other than investment purposes) of that body, but in relation to a local authority includes any development to be undertaken, whether or not by [<sup>F185</sup> that authority, in order to secure—

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- (a) the development or redevelopment of an area defined by a development plan under the [<sup>F186</sup>Planning and Compulsory Purchase Act 2004] as an area of comprehensive development; or
- (b) the treatment as a whole, by development, redevelopment or improvement, or partly by one and partly by another method, of any area in which the property is situated]

However—

- (a) <sup>F187</sup>...
- (b) the purposes of a university body shall be taken to include the purposes of any related university body (a university and the colleges of that university within the meaning of subsection (5)(c) above being related to one another within the meaning of this paragraph); and
- (c) [<sup>F188</sup>in the case of [<sup>F189</sup>the National Health Service Commissioning Board, a clinical commissioning group,]<sup>F190</sup> ... [<sup>F191</sup>[<sup>F192</sup>Local Health Board], Special Health Authority]<sup>F193</sup> ... [<sup>F194</sup>, National Health Service trust or NHS foundation trust], the purposes of [<sup>F195</sup>the National Health Service Act 2006 or the National Health Service (Wales) Act 2006] shall be substituted for the purposes of the body.]

[<sup>F196</sup>(6A) In subsections (5) and (6) above, any reference to a county council shall be read, in relation to Wales, as including a reference to a county borough council.]

- (7) If it appears to the Minister of Housing and Local Government or to the Secretary of State that this section should apply to any body or description of bodies having functions of a public nature but not included above, he may by order direct that this section shall apply to that body or description of bodies.
- (8) The power to make orders under subsection (7) above shall include power to vary or revoke any order made for the purposes of that subsection, and shall be exercisable by statutory instrument of which a draft shall be laid before Parliament.

#### Textual Amendments

- F160** Words repealed by [Local Government Act 1985 \(c. 51, SIF 81:1\)](#), s. 102, **Sch. 17**
- F161** Words inserted by [Local Government Act 1985 \(c. 51, SIF 81:1\)](#), s. 84, **Sch. 14 para. 43**
- F162** Words repealed by [Education Reform Act 1988 \(c. 40, SIF 41:1\)](#), ss. 231(7), 235(6), 237, **Sch. 13 Pt. I**
- F163** Words in s. 28(5)(a) inserted (17.12.2009) by [Local Democracy, Economic Development and Construction Act 2009 \(c. 20\)](#), s. 148(6), **Sch. 6 para. 5**; S.I. 2009/3318, art. 2(c)
- F164** Words in s. 28(5)(a) inserted (1.4.2008) by [Local Government and Public Involvement in Health Act 2007 \(c. 28\)](#), s. 245(5), **Sch. 13 para. 27**; S.I. 2008/917, art. 2(1)(p)
- F165** Words in s. 28(5)(a) inserted (3.7.2000) by 1999 c. 29, s. 328, **Sch. 29 Pt. I para. 8** (with Sch. 12 para. 9(1)); S.I. 2000/1094, **art. 4(a)(h)**
- F166** Word in s. 28(5)(a) repealed (3.7.2000) by 1999 c. 29, s. 423, **Sch. 34 Pt. VII** (with Sch. 12 para. 9(1)); S.I. 2000/1648, art. 2, **Sch.**
- F167** Words in s. 28(5)(a) substituted (1.10.1994 for certain purposes and otherwise 1.4.1995) by 1994 c. 29, s. 43, **Sch. 4 Pt. II para. 48**; S.I. 1994/2025, **art. 6**; S.I. 1994/3262, art. 4, **Sch. 1**
- F168** Words in s. 28(5)(a) substituted (16.1.2012) by [Police Reform and Social Responsibility Act 2011 \(c. 13\)](#), s. 157(1), **Sch. 16 para. 85(2)**; S.I. 2011/3019, art. 3, Sch. 1 (with Sch. 2 para. 20)
- F169** S. 28(5)(aa) inserted by [Norfolk and Suffolk Broads Act 1988 \(c. 4, SIF 81:1\)](#), ss. 21, 23(2), 27(2), **Sch. 6 para. 6**
- F170** S. 28(5)(ab) inserted (23.11.1995) by 1995 c. 25, s. 78, **Sch. 10 para. 7** (with ss. 7(6), 115, 117, Sch. 8 para. 7); S.I. 1995/2950, **art. 2(1)**

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- F171** Words in s. 28(5)(b) substituted (1.12.2008) by Housing and Regeneration Act 2008 (c. 17), s. 325(1), **Sch. 8 para. 6**; S.I. 2008/3068, art. 2(1)(w)(3) (with arts. 6-13)
- F172** Words substituted by virtue of Interpretation Act 1978 (c. 30), **s. 17(2) (a)**
- F173** S. 28(5) (*bb*) inserted by Development of Rural Wales Act 1976 (c. 75), **Sch. 7 para. 5(2)**
- F174** S. 28(5)(bc) repealed (1.4.2006) by Serious Organised Crime and Police Act 2005 (c. 15), s. 178(8), **Sch. 4 para. 17, Sch. 17 Pt. 2**; S.I. 2006/378, art. 4(1), **Sch. paras. 1013(h)**
- F175** S. 28(5) (*d*) substituted by National Health Service Reorganisation Act 1973 (c. 32), **Sch. 4 para. 111(1)**
- F176** Words in s. 28(5)(d) inserted (1.10.2012) by Health and Social Care Act 2012 (c. 7), s. 306(4), **Sch. 5 para. 10(a)(i)**; S.I. 2012/1831, art. 2(2)
- F177** Words in s. 28(5)(d) omitted (1.4.2013) by virtue of Health and Social Care Act 2012 (c. 7), s. 306(4), **Sch. 5 para. 10(a)(ii)**; S.I. 2013/160, art. 2(2) (with arts. 7-9)
- F178** Words in s. 28(5)(d) substituted (1.4.1996) by 1995 c. 17, s. 2(1)(3), **Sch. 1 Pt. III para. 94** (with **Sch. 2 paras. 6, 16**)
- F179** Words in s. 28(5)(d) substituted (1.4.2007) by The References to Health Authorities Order 2007 (S.I. 2007/961), art. 1(1), **Sch. para. 5**
- F180** Words in s. 28(5)(d) omitted (1.4.2013) by virtue of Health and Social Care Act 2012 (c. 7), s. 306(4), **Sch. 5 para. 10(a)(iii)**; S.I. 2013/160, art. 2(2) (with arts. 7-9)
- F181** Words in s. 28(5) substituted (1.4.2004) by Health and Social Care (Community Health and Standards) Act 2003 (c. 43), s. 199(1)(4), **Sch. 4 para. 12(a)**; S.I. 2004/759, art. 2
- F182** S. 28(5)(ee) inserted by Water Act 1989 (c. 15, SIF 130), s. 190(1), **Sch. 25 para. 35** (with ss. 58(7), 101(1), 141(6), 160(1)(2)(4), 189(4)–(10), 190, 193(1), **Sch. 25 para. 35, Sch. 26 paras. 3(1)(2), 17, 40(4), 57(6), 58**)
- F183** Words repealed by Water Act 1989 (c. 15, SIF 130), s. 190(3), **Sch. 27 Pt. I** (with ss. 58(7), 101(1), 141(6), 160(1)(2)(4), 189(4)–(10), 190, 193(1), **Sch. 26 paras. 3(1)(2), 17, 40(4), 41(1), 57(6), 58**)
- F184** S. 28(5)(g) added by Housing Act 1988 (c. 50, SIF 61, 75:1), s. 140(1), **Sch. 17 para. 15**
- F185** Words substituted by Planning (Consequential Provisions) Act 1990 (c. 11, SIF 123:1, 2), s. 4, **Sch. 2 para. 17(1)**
- F186** Words in s. 28(6)(a) substituted (28.9.2004 for E., 15.10.2005 for W. ) by Planning and Compulsory Purchase Act 2004 (c. 5), **Sch. 7 para. 3** (with s. 111); S.I. 2004/2202, art. 2(i), S.I. 2005/2847, art. 2(f)
- F187** S. 28(6)(a) omitted (22.11.2012) by virtue of Police Reform and Social Responsibility Act 2011 (c. 13), s. 157(1), **Sch. 16 para. 85(3)**; S.I. 2012/2892, art. 2(i)
- F188** S. 28(6) (*c*) substituted by National Health Service Reorganisation Act 1973 (c. 32), **Sch. 4 para. 111(2)**
- F189** Words in s. 28(6)(c) inserted (1.10.2012) by Health and Social Care Act 2012 (c. 7), s. 306(4), **Sch. 5 para. 10(b)(i)**; S.I. 2012/1831, art. 2(2)
- F190** Words in s. 28(6)(c) omitted (1.4.2013) by virtue of Health and Social Care Act 2012 (c. 7), s. 306(4), **Sch. 5 para. 10(b)(ii)**; S.I. 2013/160, art. 2(2) (with arts. 7-9)
- F191** S. 28(6): words in para. (*c*) of the second sentence substituted (1.4.1996) by 1995 c. 17, s. 2(1)(3), **Sch. 1 Pt. III para. 94** (with **Sch. 2 paras. 6, 16**)
- F192** Words in s. 28(6)(c) substituted (1.4.2007) by The References to Health Authorities Order 2007 (S.I. 2007/961), art. 1(1), **Sch. para. 5**
- F193** Words in s. 28(6)(c) omitted (1.4.2013) by virtue of Health and Social Care Act 2012 (c. 7), s. 306(4), **Sch. 5 para. 10(b)(iii)**; S.I. 2013/160, art. 2(2) (with arts. 7-9)
- F194** Words in s. 28(6)(c) substituted (1.4.2004) by Health and Social Care (Community Health and Standards) Act 2003 (c. 43), s. 199(1)(4), **Sch. 4 para. 12(b)**; S.I. 2004/759, art. 2
- F195** Words in s. 28(6)(c) substituted (1.3.2007) by National Health Service (Consequential Provisions) Act 2006 (c. 43), s. 8(2), **Sch. 1 para. 32** (with **Sch. 3 Pt. 1**)
- F196** S. 28(6A) inserted (1.4.1996) by 1994 c. 19, s. 22(2), **Sch. 8 para. 1(1)** (with ss. 54(5)(7), 55(5), **Sch. 17 paras. 22(1), 23(2)**); S.I. 1996/396, art. 3, **Sch. 1**

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#### Modifications etc. (not altering text)

- C14** S. 28(5)(a) amended by **Local Government Act 1985** (c. 51, SIF 81:1), s. 84, **Sch. 13 para. 17**
- C15** S. 28(5)(a) extended by **S.I. 1985/1884**, art. 10, **Sch. 3 para. 4(b)**  
S. 28(5)(a) amended (1.4.1995) by **S.I. 1995/401**, art. 18, **Sch. para. 3**  
S. 28(5)(a) extended (5.7.1994) by **1994 c. 19**, ss. 39, 66(2)(b), **Sch. 13 para. 24(b)** (with ss. 54(5)(7), 55(5), **Sch. 17 paras. 22(1), 23(2)**)
- C16** Reference to Minister of Housing and Local Government to be construed as reference to Secretary of State: **S.I. 1970/1681**, **art. 6(3)**

#### Marginal Citations

- M36** 1954 c. 56.  
**M37** 1981 c. 64.  
**M38** 1964 c. 40.

## 29 Reservation of future right to develop. **E+W**

- (1) Where a tenant of a house and premises acquires the freehold under this Part of this Act, the landlord being a local authority, there shall, if so required by the local authority, be included in the conveyance under section 8 above such covenants on the part of the tenant restricting the carrying out of development or clearing of land as are necessary to reserve the land for possible development by the authority.
- (2) Where a tenant of a house and premises acquires an extended lease under this Part of this Act, the landlord being a local authority, such covenants as are mentioned in subsection (1) above shall, if so required by the local authority, be included in the instrument extending the lease under section 14 above and, if so included, then in the terms of any subsequent tenancy at a low rent which is by virtue of section 3(3) above to be treated (with or without any intervening tenancies) as a single tenancy with that under the extended lease.
- (3) Where a covenant is entered into to give effect to subsection (1) or (2) above, it shall be expressed to be so entered into, and Part I of Schedule 4 to this Act shall have effect with respect to the operation and enforcement of any covenant so entered into.
- (4) Where a tenant of a house and premises acquires the freehold or an extended lease under this Part of this Act, the landlord being a local authority, and afterwards the local authority or any other person acquires compulsorily any interest in the property, then for the purpose of assessing compensation in accordance with the <sup>M39</sup>Land Compensation Act 1961 no account shall be taken of any increase in the value of that interest which is attributable to the carrying out of development in contravention of a covenant entered into to give effect to subsection (1) or (2) above, or to any prospect of carrying out any such development; and any compensation payable to a tenant under section 17 above shall be assessed without regard to any increase in the value of his interest which under this subsection would be disregarded on a compulsory purchase of that interest.
- (5) For purposes of this section “local authority” means a local authority as defined in section 28(5)(a) above.
- (6) Subsections (1) to (4) above shall have effect in relation—
  - (a) to the [<sup>F197</sup>new towns residuary body] and to any development corporation within the meaning of [<sup>F198</sup>the New Towns Act 1981]; and
  - (b) to any university body as defined in section 28(5)(c) above;

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as if any reference in those subsections or in Part I of Schedule 4 to this Act to a local authority were a reference to [<sup>F199</sup>that residuary body], corporation or university body;  
F200 ...

<sup>F201</sup>(6A) .....

<sup>F202</sup>(6B) Where the landlord is a university body, the possible development for which land may be reserved by a covenant entered into to give effect to subsection (1) or (2) above [<sup>F203</sup>—

- (a) includes development by a related university body (within the meaning of section 28(6)(b) above); and
- (b) must be development for the purposes (other than investment purposes) of the university body or any such related university body.]]

<sup>F204</sup>(6C) Subsections (1) to (4) above shall have effect in relation to a housing action trust as if any reference in those subsections or in Part I of Schedule 4 to this Act to a local authority were a reference to the trust.]

(7) Part II of Schedule 4 to this Act shall have effect to enable property to be re-acquired compulsorily where it is subject to a covenant entered into to give effect to subsection (1) above with the [<sup>F205</sup>Welsh new towns residuary body]<sup>F206</sup> . . . or a university body.

(8) This section shall apply, with the necessary adaptations, where a new tenancy is granted in satisfaction of the right to an extended lease under this Part of this Act, as it applies where a lease is extended in accordance with this Part of this Act.

#### Textual Amendments

- F197** Words in s. 29(6)(a) substituted (1.12.2008) by [Housing and Regeneration Act 2008 \(c. 17\), s. 325\(1\), Sch. 8 para. 7\(2\)\(a\)](#); S.I. 2008/3068, art. 2(1)(w)(3) (with arts. 6-13)
- F198** Words substituted by virtue of [Interpretation Act 1978 \(c. 30\), s. 17\(2\) \(a\)](#)
- F199** Words in s. 29(6) substituted (1.12.2008) by [Housing and Regeneration Act 2008 \(c. 17\), s. 325\(1\), Sch. 8 para. 7\(2\)\(b\)](#); S.I. 2008/3068, art. 2(1)(w)(3) (with arts. 6-13)
- F200** Words in s. 29(6) repealed (8.1.2007) by [Education and Inspections Act 2006 \(c. 40\), ss. 177\(2\), 188\(2\), Sch. 18 Pt. 2](#) (with s. 177(4))
- F201** S. 29(6A) repealed (1.10.1998) by 1998 c. 38, s. 152, [Sch. 18 Pt. IV](#) (with ss. 137(1), 139(2), 141(1), 143(2)); S.I. 1998/2244, [art. 4](#)
- F202** S. 29(6B) inserted by [Housing Act 1980 \(c. 51\), Sch. 21 para. 5](#)
- F203** Words in s. 29(6B) substituted (8.1.2007) by [Education and Inspections Act 2006 \(c. 40\), ss. 177\(3\), 188\(2\)](#) (with s. 177(4))
- F204** S. 29(6C) inserted by [Housing Act 1988 \(c. 50, SIF 61, 75:1\), s. 140\(1\), Sch. 17 para. 16](#)
- F205** Words in s. 29(7) substituted (1.12.2008) by [Housing and Regeneration Act 2008 \(c. 17\), s. 325\(1\), Sch. 8 para. 7\(3\)](#); S.I. 2008/3068, art. 2(1)(w)(3) (with arts. 6-13)
- F206** Words in s. 29(7) repealed (1.10.1998) by 1998 c. 38, s. 152, [Sch. 18 Pt. IV](#) (with ss. 137(1), 139(2), 141(1), 143(2)); S.I. 1998/2244, [art. 4](#)

#### Modifications etc. (not altering text)

- C17** S. 29(5) amended by [Local Government Act 1985 \(c. 51, SIF 81:1\), s. 84, Sch. 13 para. 17](#)  
S. 29(5) amended (1.4.1995) by S.I. 1995/401, art. 18, [Sch. para. 3](#)

#### Marginal Citations

- M39** 1961 c. 33.

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### 30 **Reservation of right of pre-emption in new town or overspill area.** **E+W**

- (1) Where a tenant of a house and premises acquires the freehold under this Part of this Act, the landlord being a body to which this section applies, there shall, if so required by the landlord, be included in the conveyance under section 8 above the following covenants on the part of the tenant, that is to say,—
  - (a) a covenant that no tenancy of the property comprised in the conveyance or any part of that property shall be granted except with the consent in writing of the landlord; and
  - (b) such covenant as appears to the landlord to be requisite for securing that, in the event of any proposal to sell that property or any part of it, the landlord will have a right of pre-emption at the price mentioned in subsection (4) below.
- (2) Where a tenant of a house and premises acquires an extended lease under this Part of this Act, the landlord being a body to which this section applies, such covenants as are mentioned in subsection (1) above shall, if so required by the landlord, be included in the instrument extending the lease under section 14 above and, if so included, then in the terms of any subsequent tenancy at a low rent which is by virtue of section 3(3) above to be treated (with or without intervening tenancies) as a single tenancy with that under the extended lease.
- (3) Where a covenant is entered into to give effect to subsection (1) or (2) above, it shall be expressed to be so entered into, and Part I of Schedule 4 to this Act shall have effect, with respect to the operation and enforcement of any covenant so entered into as it applies in the case of a covenant entered into with the same body to give effect to section 29(1) or (2) above.
- (4) The price referred to in subsection (1)(b) above, in relation to an interest in any property, is a sum equal to (and, in default of agreement, to be determined in the like manner as) the compensation which would be payable for that interest if acquired by the execution, on such date as may be determined in accordance with the covenant, of a vesting declaration under Schedule 4 to this Act.
- (5) Section 19 of the <sup>M40</sup>Landlord and Tenant Act 1927 (covenants not to assign etc. without licence or consent) shall not have effect in relation to any covenant entered into to give effect to subsection (2) above.
- (6) This section shall apply, with the necessary adaptations, where a new tenancy is granted in satisfaction of the right to an extended lease under this Part of this Act, as it applies where a lease is extended in accordance with this Part of this Act.
- (7) This section applies—
  - (a) to the [<sup>F207</sup>new towns residuary body]<sup>F208</sup> . . . and to a development corporation within the meaning of [<sup>F209</sup>the <sup>M41</sup>New Towns Act 1981]; and
  - (b) in respect of housing provided by them by virtue of section 5 of the <sup>M42</sup>Town Development Act 1952 (which authorises a council to exercise its powers for the purpose of relieving congestion or over-population outside their area), the council of any receiving district for purposes of that Act, . . . <sup>F210</sup>

#### Textual Amendments

**F207** Words in s. 30(7)(a) substituted (1.12.2008) by [Housing and Regeneration Act 2008 \(c. 17\), s. 325\(1\), Sch. 8 para. 8](#); S.I. 2008/3068, art. 2(1)(w)(3) (with arts. 6-13)



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- F208** Words in s. 30(7) repealed (1.10.1998) by 1998 c. 38, s. 152, **Sch. 18 Pt. IV** (with ss. 137(1), 139(2), 143(2)); S.I. 1998/2244, **art. 4**
- F209** Words substituted by virtue of Interpretation Act 1978 (c. 30), **s. 17(2) (a)**
- F210** Words repealed by Housing (Consequential Provisions) Act 1985 (c. 71, SIF 61), ss. 3, 5(2), Sch. 1 Pt. I, **Sch. 4**

**Marginal Citations**

- M40** 1927 c. 36.
- M41** 1981 c. 64.
- M42** 1952 c. 54.

**31 Ecclesiastical property. E+W**

- (1) The provisions of this section shall have effect as regards the operation of this Part of this Act on tenancies (including subtenancies) of ecclesiastical property, that is to say, property belonging to a capitular body within the meaning of the <sup>M43</sup>Cathedrals Measure 1963 or belonging to [<sup>F211</sup>a diocesan board of finance as diocesan glebe land]; and in this section “ecclesiastical landlord” means the capitular body or [<sup>F211</sup>diocesan board of finance] having an interest as landlord in ecclesiastical property.
- (2) In relation to an interest of an ecclesiastical landlord, the consent of the Church Commissioners shall be required to sanction—
  - (a) the provisions to be contained in a conveyance in accordance with section 10 above, or in a lease granting a new tenancy under section 14, and the price or rent payable, except as regards matters determined by the court [<sup>F212</sup>a leasehold valuation tribunal][<sup>F213</sup>, the First-tier Tribunal] or the [<sup>F214</sup>Upper Tribunal] ;
  - (b) any exercise of the ecclesiastical landlord’s rights under section 17 above, except as aforesaid, and any agreement for the payment of compensation to a tenant in accordance with that section without an application thereunder;
  - (c) any grant of a tenancy in satisfaction of the right to an extended lease under this Part of this Act;

[<sup>F215</sup>provided that the consent of the Church Commissioners shall only be required if their consent would be required if the transaction were carried out under the Endowments and Glebe Measure 1976 or the Cathedrals Measure 1999] .
- (3) Where the ecclesiastical property forms part of the endowment of a cathedral church, any sum received by the capitular body by way of the price payable for the property under section 9 above, or by way of compensation under any provision of this Part of this Act providing for compensation to be recovered by or awarded to a landlord, shall be treated as part of that endowment; and the powers conferred by sections 21 and 23 of the <sup>M44</sup>Cathedrals Measure 1963 in relation to the investment in the acquisition of land of moneys forming part of the endowment of a cathedral church shall extend to the application of any such moneys in the payment of compensation in accordance with section 17 above (whether possession is obtained under that section or without an application thereunder).
- (4) In the case of ecclesiastical property belonging to [<sup>F216</sup>a diocesan board of finance]—
  - (a) no consent or concurrence other than that of the Church Commissioners under subsection (2) above shall be required to a disposition under this Part of this Act of the [<sup>F217</sup>interest of the diocesan board of finance] (including a grant of a tenancy in satisfaction of the right to an extended lease);
  - (b) .....

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- (c) any sum receivable by the [<sup>F219</sup>diocesan board of finance] by way of the price payable for the property under section 9 above, or of any such compensation as is mentioned in subsection (3) above, shall be paid to [<sup>F220</sup>board] to be applied for purposes for which the proceeds of a sale by agreement of the property would be applicable under any enactment or Measure authorising such a sale or disposing of the proceeds of such a sale, and any sum required for the payment of compensation as mentioned in subsection (3) above may be paid by [<sup>F220</sup>board] on behalf of the incumbent out of any moneys in [<sup>F221</sup>its] hands;
- (d) ..... <sup>F222</sup>

[<sup>F223</sup>(5) In this section “diocesan board of finance” and “diocesan glebe land” have the same meaning as in the Endowments and Glebe Measure 1976.]

#### Textual Amendments

- F211** Words substituted by Church of England (Legal Aid and Miscellaneous Provisions) Measure 1988 (No. 1, SIF 21:1), s. 10(a)
- F212** Words inserted by Housing Act 1980 (c. 51), Sch. 23 para. 9
- F213** Words in s. 31(2)(a) inserted (1.7.2013) by The Transfer of Tribunal Functions Order 2013 (S.I. 2013/1036), art. 1, Sch. 1 para. 8 (with Sch. 3)
- F214** Words in s. 31(2)(a) substituted (1.6.2009) by The Transfer of Tribunal Functions (Lands Tribunal and Miscellaneous Amendments) Order 2009 (S.I. 2009/1307), art. 1, Sch. 1 para. 85 (with Sch. 5)
- F215** Words in s. 31(2) substituted (E.) (1.10.2006) by Church of England (Miscellaneous Provisions) Measure 2006 (No. 1), s. 16(2), Sch. 5 para. 15(a); 2006 No. 2, Instrument made by Archbishops
- F216** Words substituted by Church of England (Legal Aid and Miscellaneous Provisions) Measure 1988 (No. 1, SIF 21:1), s. 10(b)(i)
- F217** Words substituted by Church of England (Legal Aid and Miscellaneous Provisions) Measure 1988 (No. 1, SIF 21:1), s. 10(b)(ii)
- F218** S. 31(4)(b) repealed (provinces of Canterbury and York) by Church of England (Legal Aid and Miscellaneous Provisions) Measure 1988 (No. 1, SIF 21:1), s. 10(b)(iii)
- F219** Words substituted by Church of England (Legal Aid and Miscellaneous Provisions) Measure 1988 (No. 1, SIF 21:1), s. 10(b)(iv)
- F220** Words in s. 31(4)(c) substituted (E.) (1.10.2006) by Church of England (Miscellaneous Provisions) Measure 2006 (No. 1), s. 16(2), Sch. 5 para. 15(b); 2006 No. 2, Instrument made by Archbishops
- F221** Word in s. 31(4)(c) substituted (E.) (1.10.2006) by Church of England (Miscellaneous Provisions) Measure 2006 (No. 1), s. 16(2), Sch. 5 para. 15(b); 2006 No. 2, Instrument made by Archbishops
- F222** S. 31(4)(d) repealed (provinces of Canterbury and York) by Church of England (Legal Aid and Miscellaneous Provisions) Measure 1988 (No. 1, SIF 21:1), s. 10(b)(v)
- F223** S. 31(5) substituted (provinces of Canterbury and York) by Church of England (Legal Aid and Miscellaneous Provisions) Measure 1988 (No. 1, SIF 21:1), s. 10(c)

#### Modifications etc. (not altering text)

- C18** S. 31 amended (30.6.1999 with application as mentioned) by 1999 Measure No. 1, ss. 36(2)-(6), 38(2)(3)

#### Marginal Citations

- M43** 1963 No. 2.  
**M44** 1963 No. 2.

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## 32 Saving for National Trust. **E+W**

This Part of this Act shall not prejudice the operation of section 21 of the <sup>M45</sup>National Trust Act 1907, and accordingly a person shall not be entitled under this Part of this Act to acquire the freehold of property if an interest in the property is under that section vested inalienably in the National Trust for Places of Historic Interest or Natural Beauty.

### Marginal Citations

M45 1907 c. cxxvi.

## [32A] <sup>F224</sup>Property transferred for public benefit etc. **E+W**

- (1) A notice of a person's desire to have the freehold of a house and premises under this Part shall be of no effect if at the relevant time the whole or any part of the house and premises is qualifying property and either—
  - (a) the tenancy was created after the commencement of Chapter III of Part I of the Leasehold Reform, Housing and Urban Development Act 1993; or
  - (b) (where the tenancy was created before that commencement) the tenant would not be entitled to have the freehold if either or both of sections 1A and 1B above were not in force [<sup>F225</sup><sup>F226</sup>or if section 1AA above were not in force]].
- (2) For the purposes of this section the whole or any part of the house and premises is qualifying property if—
  - (a) it has been designated under section 31(1)(b), (c) or (d) of the Inheritance Tax Act 1984 (designation and undertakings relating to conditionally exempt transfers), whether with or without any other property, and no chargeable event has subsequently occurred with respect to it; or
  - (b) an application to the Board for it to be so designated is pending; or
  - (c) it is the property of a body not established or conducted for profit and a direction has been given in relation to it under section 26 of that Act (gifts for public benefit), whether with or without any other property; or
  - (d) an application to the Board for a direction to be so given in relation to it is pending.
- (3) For the purposes of subsection (2) above an application is pending as from the time when it is made to the Board until such time as it is either granted or refused by the Board or withdrawn by the applicant; and for this purpose an application shall not be regarded as made unless and until the applicant has submitted to the Board all such information in support of the application as is required by the Board.
- (4) A notice of a person's desire to have the freehold of a house and premises under this Part shall cease to have effect if—
  - (a) before completion of the conveyance in pursuance of the tenant's notice, the whole or any part of the house and premises becomes qualifying property; and
  - (b) the condition set out in subsection (1)(a) or (as the case may be) subsection (1)(b) above is satisfied.
- (5) Where a tenant's notice ceases to have effect by virtue of subsection (4) above—
  - (a) section 9(4) above shall not apply to require the tenant to make any payment to the landlord in respect of costs incurred by reason of the notice; and

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- (b) the person who applied or is applying for designation or a direction shall be liable to the tenant for all reasonable costs incurred by the tenant in connection with his claim to acquire the freehold of the house and premises.
- (6) Where it is claimed that subsection (1) or (4) above applies in relation to a tenant's notice, the person making the claim shall, at the time of making it, furnish the tenant with evidence in support of it; and if he fails to do so he shall be liable for any costs which are reasonably incurred by the tenant in consequence of the failure.
- (7) In subsection (2) above—
  - (a) paragraphs (a) and (b) apply to designation under section 34(1)(a), (b) or (c) of the Finance Act 1975 or section 77(1)(b), (c) or (d) of the Finance Act 1976 as they apply to designation under section 31(1)(b), (c) or (d) of the Inheritance Tax Act 1984; and
  - (b) paragraphs (c) and (d) apply to a direction under paragraph 13 of Schedule 6 to the Finance Act 1975 as they apply to a direction under section 26 of that Act of 1984.
- (8) In this section—
  - “the Board” means the Commissioners of Inland Revenue;
  - “chargeable event” means—
    - (a) any event which in accordance with any provision of Chapter II of Part II of the Inheritance Tax Act 1984 (exempt transfers) is a chargeable event, including any such provision as applied by section 78(3) of that Act (conditionally exempt occasions); or
    - (b) any event which would have been a chargeable event in the circumstances mentioned in section 79(3) of that Act (exemption from ten-yearly charge).]

#### Textual Amendments

**F224** S. 32A inserted (1.11.1993 subject as mentioned in [S.I. 1993/2134](#) art. 5(b), Sch. 1 para. 1) by [1993 c. 28, s. 68](#); [S.I. 1993/2134](#), [art. 5\(b\)](#)

**F225** Words in s. 32A(1)(b) repealed (7.9.2009 for E.) by [Housing and Regeneration Act 2008 \(c. 17\)](#), s. [325\(1\)](#), [Sch. 16](#); [S.I. 2009/2096](#), [art. 2\(2\)\(a\)\(c\)](#) (with [art. 3\(1\)\(2\)](#))

**F226** Words in s. 32A(1)(b) inserted (1.4.1997) by [1996 c. 52, s. 106](#), [Sch. 9 para. 2\(1\)\(6\)](#); [S.I. 1997/618](#), [art. 2\(1\)](#) (with [Sch.](#))

### 33 Crown land. **E+W**

- (1) In the case of a tenancy from the Crown this Part of this Act shall apply in favour of the tenant as in the case of any other tenancy if there has ceased to be a Crown interest in the land, and as against a landlord holding a tenancy from the Crown shall apply also if either—
  - (a) his sub-tenant is seeking an extended lease and the landlord, or a superior landlord holding a tenancy from the Crown, has a sufficient interest to grant it and is entitled to do so without the concurrence of the appropriate authority; or
  - (b) the appropriate authority notifies the landlord that as regards any Crown interest affected the authority will grant or concur in granting the freehold or extended lease.

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- (2) For purposes of this section “tenancy from the Crown” means a tenancy of land in which there is, or has during the subsistence of the tenancy been, a Crown interest superior to the tenancy, and “Crown interest” and “the appropriate authority” in relation to a Crown interest mean respectively—
- (a) an interest comprised in the Crown Estate, and the Crown Estate Commissioners;
  - (b) an interest belonging to Her Majesty in right of the Duchy of Lancaster, and the Chancellor of the Duchy;
  - (c) an interest belonging to the Duchy of Cornwall, and such person as the Duke of Cornwall or the possessor for the time being of the Duchy appoints;
  - (d) any other interest belonging to a government department or held on behalf of Her Majesty for the purposes of a government department, and the Minister in charge of that department.
- [<sup>F227</sup>(2A) For the purposes of this Part of this Act, an interest belonging to the Welsh new towns residuary body in a tenancy of land is to be treated as if it were not an interest belonging to the Crown.]
- (3) The restriction imposed by section 3(2) of the <sup>M46</sup>Crown Estate Act 1961 on the term for which a lease may be granted by the Crown Estate Commissioners shall not apply where the lease is granted by way of extension of a long tenancy at a low rent and it appears to the Crown Estate Commissioners that, if the tenancy were not a tenancy from the Crown, there would be a right to an extended lease under this Part of this Act.
- (4) Where, in the case of land belonging to Her Majesty in right of the Duchy of Lancaster or to the Duchy of Cornwall, it appears to the appropriate authority that a tenant under a long lease at a low rent would, if the tenancy were not a tenancy from the Crown, be entitled to an extended lease under this Part of this Act, then a lease corresponding to that to which the tenant would be so entitled may be granted to take effect wholly or partly out of the Crown interest by the same person and with the same formalities as in the case of any other lease of such land.
- (5) In the case of land belonging to the Duchy of Cornwall, the purposes authorised by section 8 of the <sup>M47</sup>Duchy of Cornwall Management Act 1863 for the advancement of parts of such gross sums as are therein mentioned shall include the payment to tenants of sums corresponding to those which, if the tenancies were not tenancies from the Crown, would be payable by way of compensation under section 17 above.

#### Textual Amendments

**F227** S. 33(2A) inserted (1.12.2008) by [Housing and Regeneration Act 2008 \(c. 17\)](#), s. 325(1), [Sch. 8 para. 9](#); S.I. 2008/3068, art. 2(1)(w)(3) (with arts. 6-13)

#### Marginal Citations

**M46** 19661 c. 55.

**M47** 1863 c. 49.

#### [<sup>F228</sup>**33A Exclusion of certain shared ownership leases.** **E+W**]

The provisions of Schedule 4A to this Act shall have effect to exclude certain shared ownership leases from the operation of this Part of this Act.]

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**Textual Amendments**

**F228** S. 33A inserted by [Housing and Planning Act 1986 \(c. 63, SIF 75:1\)](#), s. 18, [Sch. 4 para. 5](#)

*Transitional*

<sup>F229</sup>**34** ..... **E+W**

**Textual Amendments**

**F229** S. 34 repealed (5.11.1993) by [1993 c. 50, s. 1\(1\)](#), [Sch. 1 Pt. XIII](#) Group1

<sup>F230</sup>**35** ..... **E+W**

**Textual Amendments**

**F230** S. 35 repealed (5.11.1993) by [1993 c. 50, s. 1\(1\)](#), [Sch. 1 Pt. XIII](#) group1

**36 Relief in respect of mortgages etc. on landlord's estate. **E+W****

- (1) Where at the passing of this Act—
- (a) a house is held on a long tenancy not having more than twenty years unexpired, or on a long tenancy capable of being determined within twenty years by notice given by the landlord; and
  - (b) the estate of the immediate or a superior landlord is charged to secure payment of any sum (otherwise than by way of rentcharge), whether or not the landlord is personally liable as principal or otherwise for the payment of that sum;

then on an application under subsection (2) or (3) below the court may make such order authorised by the subsection as the court thinks proper for the purpose of avoiding or mitigating any financial hardship that might otherwise be caused by the rights conferred on tenants by this Part of this Act.

- (2) In any of the following cases, that is to say,—
- (a) where the landlord proposes during the tenancy (including any extension thereof under this Act) to sell or realise any property which is subject to the charge, or a tenant of the house has given notice under this Part of this Act of his desire to have the freehold;
  - (b) where during the tenancy (including any such extension) the person entitled to the benefit of the charge has taken any steps to enforce the charge or demanded payment of the sum thereby secured or, if the house or any other property subject to the charge is subject also to another charge created or arising before the commencement of this Part of this Act, a person entitled to the benefit of the other charge has taken any steps to enforce the other charge or demanded payment of the sum thereby secured;

the court may on the application of the landlord make an order providing for all or any of the following:—

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- (i) for discharging or modifying any liability in respect of the sum secured by the charge, whether of the landlord or of persons liable jointly with him or as surety for him;
  - (ii) for discharging or modifying the terms of the charge whether as respects the house or any other property subject to the charge, or the terms of any collateral charge;
  - (iii) for restricting the exercise of any right or remedy in respect of any such liability or charge.
- (3) In any of the cases mentioned in subsection (2)(a) and (b) above the court may on the application of the person entitled to the benefit of the charge make an order providing for all or any of the following:—
- (a) for discharging or modifying the terms of any prior charge, whether as respects the house or any other property subject to the charge;
  - (b) for restricting the exercise of any right or remedy in respect of any prior charge on the house or other property subject to the charge.
- (4) Any order under this section may be made either unconditionally or subject to such terms and conditions, including conditions with respect to the payment of money, as the court may think just and equitable to impose.
- (5) Where steps are taken in a court other than the county court to enforce a charge or recover any sum thereby secured, that other court shall have the like powers under this section in relation to that or any other charge as the county court would have in consequence of those steps being taken or, if an application under this section is pending in the county court, may on such terms as the other court thinks just suspend the proceedings for the enforcement of the charge or recovery of the said sum or direct that they be transferred to the county court.

### *Construction*

## 37 Interpretation of Part I. **E+W**

- (1) For the purposes of this Part of this Act—
- (a) “the appointed day” means the day appointed for the coming into force of the provisions of this Part of this Act other than sections 34 to 36, and references to the commencement of this Part of this Act shall be construed as referring to the commencement of those provisions;
  - [<sup>F231</sup>(aa) “the appropriate tribunal” means—
    - (i) in relation to a house and premises in England, the First-tier Tribunal or, where determined by or under Tribunal Procedure Rules, the Upper Tribunal; and
    - (ii) in relation to a house and premises in Wales, a leasehold valuation tribunal;]
    - (b) “incumbrance” and “tenant’s incumbrance” have, subject to section 12(8) above, the meanings assigned to them by section 8;
    - [<sup>F232</sup>(ba) “new towns residuary body” means—
      - (i) in relation to England, the Homes and Communities Agency so far as exercising functions in relation to anything transferred (or to be transferred) to it as mentioned in section 52(1)(a) to (d) of the Housing

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- and Regeneration Act 2008 <sup>F233</sup> or the Greater London Authority so far as exercising its new towns and urban development functions]; and
- (ii) in relation to Wales, means the Welsh Ministers so far as exercising functions in relation to anything transferred (or to be transferred) to them as mentioned in section 36(1)(a)(i) to (iii) of the New Towns Act 1981 (and references to the “Welsh new towns residuary body” shall be construed accordingly);]
- (c) “notice to quit” means a notice to terminate a tenancy (whether a periodical tenancy or a tenancy for a term of years certain) given in accordance with the provisions (whether express or implied) of that tenancy;
- (d) “relevant time” means, in relation to a person’s claim to acquire the freehold or an extended lease under this Part of this Act, the time when he gives notice in accordance with this Act of his desire to have it;
- <sup>F234</sup>(e) .....
- (f) “tenancy” means a tenancy at law or in equity, but does not include a tenancy at will, nor any interest created by way of security and liable to termination by the exercise of any right of redemption or otherwise, nor any interest created by way of trust under a settlement, and “demise” shall be construed accordingly;
- (g) “term date”, in relation to a tenancy granted for a term of years certain, means the date of expiry of that term, and “extended term date” and “original term date” mean respectively the term date of a tenancy with and without an extension under this Part of this Act.
- (2) A tenancy to which section 19(2) of the <sup>M48</sup>Landlord and Tenant Act 1954 <sup>F235</sup> or paragraph 16(2) of Schedule 10 to the Local Government and Housing Act 1988] applies shall be treated for purposes of this Part of this Act as granted to expire at the date which is the term date for purposes of <sup>F236</sup>the said Act of 1954 or, as the case may be, the said Schedule 10] (that is to say, the first date after the commencement of <sup>F237</sup>the said Act of 1954 or, as the case may be, the coming into force of the said Schedule 10] on which, apart from <sup>F238</sup>the said Act of 1954 or, as the case may be, the said Schedule 10], the tenancy could have been brought to an end by notice to quit given by the landlord).
- (3) Subject to subsection (2) above, where under section 3(2) of this Act a tenancy created or arising as a tenancy from year to year or other periodical tenancy is to be treated as a long tenancy, the term date of that tenancy shall be taken to be the date (if any) at which the tenancy is to terminate by virtue of a notice to quit given by the landlord before the relevant time, or else the earliest date at which it could at that time (in accordance with its terms and apart from any enactment) be brought to an end by a notice to quit given by the landlord.
- (4) Subject to subsection (2) above, in the case of a tenancy granted to continue as a periodical tenancy after the expiration of a term of years certain, or to continue as a periodical tenancy if not terminated at the expiration of such a term, any question whether the tenancy is at any time to be treated for purposes of this Part of this Act <sup>F239</sup> . . . as a long tenancy, and (if so) with what term date, shall be determined as it would be if there had been two tenancies, as follows—
- (a) one granted to expire at the earliest time (at or after the expiry of the said term of years) at which the tenancy could (in accordance with its terms and apart from any enactment) be brought to an end by notice to quit given by the landlord; and



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- (b) the other granted to commence at the expiration of the first (and not being one to which subsection (2) above applies).
- (5) <sup>F240</sup> . . . No reference in this Part of this Act to a person occupying property as his residence shall be taken to extend to any occupation of a company or other artificial person nor, where the tenant is a corporation sole, shall the corporator, while in occupation, be treated as occupying as tenant.
- (6) [<sup>F241</sup>Section 25(1), (2) and (4) of the <sup>M49</sup>Rent Act 1977] shall apply to the ascertainment for purposes of this Part of this Act of the rateable value of a house and premises or any other property as they apply to the ascertainment of that of a dwelling-house for purposes of that Act.
- (7) For purposes of this Part of this Act an order of a court is to be treated as becoming final—
- (a) if not appealed against, on the expiration of the time for bringing an appeal; or
- (b) if appealed against and not set aside in consequence of the appeal, at the time when the appeal and any further appeal is disposed of by the determination of it and the expiration of the time for bringing a further appeal (if any) or by its being abandoned or otherwise ceasing to have effect.

#### Textual Amendments

- F231** S. 37(1)(aa) inserted (1.7.2013) by [The Transfer of Tribunal Functions Order 2013 \(S.I. 2013/1036\)](#), [art. 1](#), [Sch. 1 para. 9](#) (with [Sch. 3](#))
- F232** S. 37(1)(ba) inserted (1.12.2008) by [Housing and Regeneration Act 2008 \(c. 17\)](#), s. 325(1), [Sch. 8 para. 10](#); [S.I. 2008/3068](#), [art. 2\(1\)\(w\)\(3\)](#) (with arts. 6-13)
- F233** Words in s. 37(1)(ba)(i) inserted (1.4.2012) by [Localism Act 2011 \(c. 20\)](#), s. 240(2), [Sch. 19 para. 2](#); [S.I. 2012/628](#), [art. 6\(i\)](#) (with arts. 9, 11, 14, 15, 17)
- F234** S. 37(1) (e) repealed by [Rent Act 1968 \(c. 23\)](#), [Sch. 17](#)
- F235** Words inserted by [Local Government and Housing Act 1989 \(c. 42, SIF 75:1\)](#), s. 194(1), [Sch. 11 para. 12\(a\)](#)
- F236** Words substituted by [Local Government and Housing Act 1989 \(c. 42, SIF 75:1\)](#), s. 194(1), [Sch. 11 para. 12\(b\)](#)
- F237** Words substituted by [Local Government and Housing Act 1989 \(c. 42, SIF 75:1\)](#), s. 194(1), [Sch. 11 para. 12\(c\)](#)
- F238** Words substituted by [Local Government and Housing Act 1989 \(c. 42, SIF 75:1\)](#), s. 194(1), [Sch. 11 para. 12\(d\)](#)
- F239** Words in s. 37(4) repealed (26.7.2002 for E. and 1.1.2003 for W.) by [2002 c. 15](#), s. 180, [Sch. 14](#); [S.I. 2002/1912](#), [art. 2\(b\)\(ii\)](#), [Sch. 1 Pt. 3](#) (subject to transitional provisions and savings in Sch. 2 of the commencing S.I.); [S.I. 2002/3012](#), [art. 2\(b\)\(ii\)](#), [Sch. 1 Pt. 3](#) (subject to transitional provisions and savings in Sch. 2 of the commencing S.I.)
- F240** Words in s. 37(5) repealed (26.7.2002 for E. and 1.1.2003 for W.) by [2002 c. 15](#), s. 180, [Sch. 14](#); [S.I. 2002/1912](#), [art. 2\(b\)\(ii\)](#), [Sch. 1 Pt. 3](#) (subject to transitional provisions and savings in Sch. 2 of the commencing S.I.); [S.I. 2002/3012](#), [art. 2\(b\)\(ii\)](#), [Sch. 1 Pt. 3](#) (subject to transitional provisions and savings in Sch. 2 of the commencing S.I.)
- F241** Words substituted by [Rent Act 1977 \(c. 42\)](#), s. 155, [Sch. 23 para. 44](#)

#### Marginal Citations

- M48** 1954 c. 56.
- M49** 1977 c. 42.

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## PART II **E+W**

### AMENDMENTS OF OTHER ACTS

#### 38 **Modification of right to possession under Landlord and Tenant Act 1954.** **E** **+W**

- (1) The grounds on which under section 13 of the <sup>M50</sup>Landlord and Tenant Act 1954 a landlord may apply to the court for possession of property comprised in a tenancy (and which may accordingly under section 4 be specified in a landlord's notice to resume possession), in the case of applications made after the commencement of this Part of this Act, shall not include the ground mentioned in section 12(1)(a) (redevelopment), except where the landlord seeking to obtain possession is a body to which section 28 above applies and the property is required for relevant development within the meaning of section 28; but on any application by such a body under section 13 of that Act for possession on that ground a certificate given by a Minister of the Crown as provided by section 28(1) above shall be conclusive that the property is so required.
- (2) In section 57 of the Landlord and Tenant Act 1954 (under which a tenant's rights under Part II of that Act are curtailed if an authority within the section is the landlord or a superior landlord and obtains a certificate similar to that under section 28 above) references to a local authority shall apply to any body to which section 28 above applies and which is not otherwise within the said section 57.
- (3) For purposes of this section, section 28(5) to (8) above shall have effect from the commencement of this Part of this Act.

#### Modifications etc. (not altering text)

- C19** S. 38(1) amended by [Local Government Act 1985 \(c. 51, SIF 81:1\)](#), s. 84, [Sch. 13 para. 17](#)  
S. 38(1) amended (1.4.1995) by [S.I. 1995/401](#), art. 18, [Sch. para. 3](#)

#### Marginal Citations

- M50** 1954 c. 56.

#### 39 **Application of Rent Acts to long tenancies and adaptation of Landlord and Tenant Act 1954.** **E+W**

- (1) Section 21(2) of the <sup>M51</sup>Rent Act 1957 (which applies Part I of the <sup>M52</sup>Landlord and Tenant Act 1954 to long tenancies not at a low rent) shall cease to have effect; and—
  - (a) ..... <sup>F242</sup>
- (2) Subsection (1) above shall have effect subject to the adaptations of Part I of the Landlord and Tenant Act 1954, and of the [<sup>F243</sup><sup>M53</sup>Rent Act 1968] as it applies to a statutory tenancy arising by virtue of the said Part I, which are made by Schedule 5 to this Act; and the transitional and supplementary provisions made by that Schedule shall have effect in relation to subsection (1) above and to statutory tenancies so arising.
- (3) ..... <sup>F244</sup>

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#### Textual Amendments

- F242** S. 39(1) (a) (c) repealed by [Rent Act 1968 \(c. 23\)](#), [Sch. 17](#) and s. 39(1)(b) repealed by [Counter-Inflation Act 1973 \(c. 9\)](#), [Sch. 6](#)
- F243** Words substituted by [Rent Act 1968 \(c. 23\)](#), [Sch. 15](#); continued by [Rent Act 1977 \(c. 42\)](#), [Sch. 24 para. 30](#)
- F244** S. 39(3) repealed by [Statute Law \(Repeals\) Act 1976 \(c. 16\)](#), [Sch. 1 Pt. XV](#)

#### Marginal Citations

- M51** 1957 c. 25.  
**M52** 1954 c. 56.  
**M53** 1968 c. 23.

### 40 Amendments of Places of Worship (Enfranchisement) Act 1920. E+W

- (1) In section 1(1) of the <sup>M54</sup> Places of Worship (Enfranchisement) Act 1920 after the words “place of worship”, where first occurring, there shall be inserted the words “ or, in connexion with a place of worship, for the purpose of a minister’s house ” ; and accordingly in section 5 of that Act—
- (a) in the definition of “place of worship” for the words “caretaker’s house or minister’s house” there shall be substituted the words “ or caretaker’s house ” ; and
  - (b) in the definition of “trustees” after the words “place of worship” there shall be inserted the words “ or minister’s house ”.
- (2) In section 1(1) of the Places of Worship (Enfranchisement) Act 1920 after paragraph (a) of the proviso there shall be inserted as a new paragraph (aa) the following :—
- “(aa) where the person entitled to the freehold or an immediate reversion requires that underlying minerals be excepted, the trustees shall not be entitled to acquire his interest in the minerals if proper provision is made for the support of the premises as they have been enjoyed during the lease and in accordance with the terms of the lease and of the trust ; and”.
- (3) After section 1(1) of the Places of Worship (Enfranchisement) Act 1920 there shall be inserted as a new subsection (1A) :—
- “(1A) Where the residence house of a benefice is held by the incumbent under a lease to which this Act applies, this Act shall have effect (with any necessary modifications) in relation to the enlargement of the incumbent’s leasehold interest into a fee simple, and in relation to the estate so acquired, as it would have effect if the residence house were vested for that interest in trustees ; and the powers and provisions of the Parsonages Measure 1938 (as amended by any subsequent enactment) relating to the purchase of houses for parsonages shall apply for and in relation to the acquisition under this Act of the freehold reversion.”.
- (4) In section 2 of the <sup>M55</sup>Places of Worship (Enfranchisement) Act 1920 for the words from “the Lands Clauses Acts”, where first occurring, to the end of paragraph (a) there shall be substituted—

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“Part I of the Compulsory Purchase Act 1965 shall apply as if the trustees were an authority authorised to acquire the premises by virtue of a compulsory purchase order, made under the Acquisition of Land (Authorisation Procedure) Act 1946 ; but in relation to any acquisition under this Act the following provisions shall have effect :—

- (a) in Part I of the Compulsory Purchase Act 1965 section 4 (time limit for acquisition) shall not apply, and for the purposes of the said Part I “land” shall include easements in or relating to land ;”and accordingly in the Places of Worship (Enfranchisement) Act 1920 there shall be omitted the definition in section 5 of “the county court” and the Schedule (which adapted for purposes of that Act the enactments originally applied by section 2, and in particular made in relation to re-sales special provision about the right to pre-emption conferred by the Land Clauses Acts but not by the Compulsory Purchase Act 1965).
- (5) Section 4 of the Places of Worship (Enfranchisement) Act 1920 (under which the trusts of a place of worship may be enforced after enfranchisement by the Charity Commissioners, and if the trusts are not observed, the Commissioners may require the land to be sold) shall be omitted.
- (6) In section 5 of the Places of Worship (Enfranchisement) Act 1920, in the definition of “freehold reversion”, there shall be omitted the words from “and, where” onwards (being words relating to copyhold land and land of customary tenure).
- (7) In accordance with the provisions of this section the <sup>M56</sup>Places of Worship (Enfranchisement) Act 1920 shall, subject to subsection (8) below, have effect as set out in Schedule 6 to this Act.
- (8) This section and the repeals made by Part II of Schedule 7 to this Act shall not affect the operation of the Places of Worship (Enfranchisement) Act 1920 where an interest has been acquired, or notice to treat for its acquisition has been served, under that Act before this section comes into force, except that section 4 of that Act shall cease to have effect for any purpose.

#### **Modifications etc. (not altering text)**

**C20** The text of s. 40(1)–(6) is in the form in which it was originally enacted: it was not reproduced in Statutes in Force and does not reflect any amendments or repeals which may have been made prior to 1.2.1991.

#### **Marginal Citations**

**M54** 1920 c. 56.

**M55** 1920 c. 56.

**M56** 1920 c. 56.

#### **41 Short title, repeals, extent and commencement. E+W**

- (1) This Act may be cited as the Leasehold Reform Act 1967.
- (2) The enactments mentioned in Schedule 7 to this Act are hereby repealed to the extent specified in the third column of that Schedule, but subject to the savings mentioned at the end of Parts I and II of the Schedule.

*Status: Point in time view as at 12/04/2015.*

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- (3) This Act shall not extend to Scotland or Northern Ireland.
- (4) Sections 34 to 36 of this Act shall come into force on the day it is passed; and, <sup>F245</sup> . . . the other provisions of Part I shall come into force on such day as the Minister of Housing and Local Government and the Secretary of State may appoint by order made by them jointly by statutory instrument, which shall be laid before Parliament after being made.
- (5) Part II of this Act shall come into force at the end of one month following the day on which this Act is passed.

#### **Textual Amendments**

**F245** Words in s. 41(4) repealed (5.11.1993) by 1993 c. 50, s. 1(1), **Sch. 1 Pt. XIII** Group1

#### **Modifications etc. (not altering text)**

**C21** 1.1.1968 appointed under s. 41(4) by **S.I. 1967/1836**

**C22** Reference to Minister of Housing and Local Government to be construed as reference to Secretary of State: **S.I. 1970/1681**, **art. 6(3)**

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## SCHEDULES

### SCHEDULE 1 **E+W**

Section 5.

#### ENFRANCHISEMENT OR EXTENSION BY SUB-TENANTS

##### *General*

- 1 (1) Where a person (in this Schedule referred to as “the claimant”) gives notice of his desire to have the freehold or an extended lease of a house and premises under Part I of this Act, and does so in respect of a sub-tenancy (in this Schedule referred to as “the tenancy in possession”), then except as otherwise provided by this Schedule—
  - (a) the rights and obligations of the landlord under Part I of this Act shall, so far as their interests are affected, be rights and obligations respectively of the estate owner in respect of the fee simple and of each of the persons in whom is vested a concurrent tenancy superior to the tenancy in possession (and references to the landlord shall apply accordingly); and
  - (b) the proceedings arising out of the notice, whether for resisting or giving effect to the claim to acquire the freehold or extended lease, shall be conducted, on behalf of all the persons referred to in (a) above, by and through that one of them who is identified by this Schedule as “the reversioner”.
- (2) Where there is a tenancy reversionary on a tenancy in respect of which a person gives notice as aforesaid, then (except in so far as special provision is made for such a reversionary tenancy) this Schedule shall apply as if the reversionary tenancy were a concurrent tenancy intermediate between the tenancy in possession and any interest superior to it.
- (3) In the following provisions of this Schedule the persons for whom the reversioner is by this paragraph authorised to act are referred to as “other landlords”; and in this Schedule references to superior interests mean the estate in fee simple and any tenancy superior (or treated by sub-paragraph (2) above as superior) to the inferior interest in question.
- 2 Subject to paragraph 3 below, “the reversioner” shall be—
  - (a) if any person has a tenancy of the house carrying an expectation of possession of thirty years or more, that person or, if there is more than one, that one of them to whose tenancy the other tenancies are superior;
  - (b) if there is no such tenancy, the estate owner in respect of the fee simple of the house.
- 3 (1) If it appears to the court, on an application made by any of the persons having an interest superior to the tenancy in possession,—
  - (a) that the respective interests of those persons, the absence or incapacity of the person designated by paragraph 2 above or other special circumstances require that one of the other landlords should act as the reversioner instead of that person; or

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- (b) that the person so designated is unwilling to act as the reversioner, and that one of the other landlords could appropriately replace him and is willing to do so; or
  - (c) that by reason of complications in the title paragraph 2 above is inapplicable; the court may, on such terms and conditions as it thinks fit, appoint such person as it thinks fit to be the reversioner.
- (2) The court may also, on the application of any of the other landlords or of the claimant, remove the reversioner and appoint another person in his place, if it appears to the court proper to do so by reason of any delay or default, actual or apprehended, on the part of the reversioner.
- 4 (1) Without prejudice to the generality of paragraph 1 above, the reversioner may on behalf and in the name of the other landlords—
- (a) execute any conveyance to give effect to section 8 of this Act, or any lease to give effect to section 14; and
  - (b) take or defend any legal proceedings under Part I of this Act in respect of matters arising out of the claimant’s notice.
- (2) Subject to paragraphs 5 and 6 below, in relation to all matters within the authority given to him by this Schedule the reversioner’s acts shall be binding on the other landlords and on their interests in the house and premises or any other property; but in the event of dispute either the reversioner or any of the other landlords may apply to the court for directions as to the manner in which he should act on the matter in dispute.
- (3) If any of the other landlords cannot be found, or his identity cannot be ascertained, the reversioner shall apply to the court for directions, and the court may make such order in the matter as it thinks proper with a view to giving effect to the rights of the claimant and protecting the interests of other persons; but subject to the directions of the court—
- (a) the reversioner shall proceed as in other cases;
  - (b) a conveyance or lease executed by the reversioner on behalf of that landlord by such description as will identify the interest intended to be conveyed or bound shall be of the same effect as if executed in his name;
  - (c) if the freehold is to be conveyed to the claimant, any sum paid as the price for that landlord’s interest shall be paid into court.
- (4) The reversioner, if he acts in good faith and with reasonable care and diligence, shall not be liable to any of the other landlords for any loss or damage caused by any act or omission in the exercise or intended exercise of the authority given to him by this Schedule.
- 5 (1) Notwithstanding anything in paragraph 4(2) above, any of the other landlords shall be entitled, if he so desires, to be separately represented in any legal proceedings in which his title to any property comes in question, or in any legal proceedings relating to the price payable for the house and premises under section 9 of this Act.
- (2) For the purpose of deducing, evidencing or verifying his title to any property, any of the other landlords, on given written notice to the reversioner and to the claimant, may deal directly with the claimant, if he objects to disclosing his title to the reversioner, and he shall deal directly with the claimant if the claimant by written notice given to him and to the reversioner so requires.



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- (3) For the purpose of agreeing the price payable for his interest under section 9 of this Act, any of the other landlords, on giving written notice to the reversioner and to the claimant, may deal directly with the claimant; and whether he does that or not, he may require the reversioner to apply to [<sup>F246</sup>the appropriate tribunal] for the price to be determined by [<sup>F246</sup>the appropriate tribunal].
- (4) Any of the other landlords shall be entitled to require that the price payable for his interest (or so much of it as is payable to him) shall be paid by the claimant 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 claimant, 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 claimant.
- (5) It shall be the duty of each of the other landlords—
- (a) subject to sub-paragraphs (2) and (3) above, 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 claimant (if the claimant is acquiring the freehold), to ensure that all deeds and other documents that ought on his part to be delivered to the claimant on completion are available for the purpose, including in the case of registered land the land certificate any other documents necessary to perfect the claimant's title;
- and, if any of the other landlords fails to do so, he shall indemnify the reversioner against any liability incurred by the reversioner in consequence of the failure.
- (6) Each of the other landlords 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 claimant.

#### Textual Amendments

**F246** Words in Sch. 1 para. 5(3) substituted (1.7.2013) by [The Transfer of Tribunal Functions Order 2013 \(S.I. 2013/1036\)](#), art. 1, [Sch. 1 para. 10](#) (with [Sch. 3](#))

- 6 (1) The authority given by this Schedule to the reversioner shall not extend to the bringing of proceedings under section 17 or 18 of this Act on behalf of any of the other landlords, or preclude any of the other landlords from bringing proceedings under that section on his own behalf; and (without prejudice to the operation of paragraph 1(2) above) a person entitled to a tenancy reversionary on the tenancy in possession may make an application under section 17 (by virtue of subsection (4)) or section 18 as a landlord.
- (2) Sections 29 and 30 of this Act shall apply, and apply only, where the authority entitled to require the covenant under the section is the estate owner in respect of the fee simple and there is no tenancy carrying an expectation of possession of thirty years or more.
- (3) For purposes of section 3(6) of this Act separate tenancies shall be deemed to be tenancies with the same landlord if the immediate landlord is the same.

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### Enfranchisement

- 7 (1) Where a conveyance is executed to give effect to section 8 of this Act—
- (a) section 10 shall have effect in relation to rights and restrictions arising by virtue of any tenancy superior to the tenancy in possession (or by virtue of an agreement collateral to such a tenancy), so far as they are directly or indirectly to the benefit of or enforceable against the claimant during the tenancy in possession, as if they arose by virtue of that tenancy [<sup>F247</sup>, and the reference in subsection (1A) of that section to the covenants for title implied under Part I of the Law of Property (Miscellaneous Provisions) Act 1994 shall be read as excluding the covenant in section 4(1)(b) of that Act (compliance with terms of lease)]; and
  - (b) [<sup>F248</sup>subject to paragraph 7A] a separate price shall be payable in accordance with section 9 for each of the interests superior to the tenancy in possession, and . . . <sup>F249</sup> section 9 shall apply to the computation of that price with such modifications as are appropriate to relate it to a sale of the interest in question subject to any tenancies intermediate between that interest and the tenancy in possession, together with tenant's incumbrances relative to those tenancies; and
  - (c) so much of section 11 as relates to the application of the purchase price for redemption of rentcharges . . . <sup>F250</sup> shall apply only to the price payable for the estate in fee simple; and
  - (d) so much of sections 12 and 13 as relates to the application of the price payable in or towards redemption of charges shall apply separately to the price payable for each interest together with the relative charges.
- (2) Where by reason of section 11(2) of this Act it is necessary to make (otherwise than out of the price payable for the house and premises) any payment for the redemption of a rentcharge . . . <sup>F250</sup>, the reversioner, if he is not the landlord liable or primarily liable in respect of the rentcharge . . . <sup>F250</sup>, shall not be required to make that payment otherwise than out of money made available for the purpose by that landlord, and it shall be the duty of that landlord to provide for the redemption; and similarly where by reason of section 12(8) proviso of this Act it is necessary to discharge the house and premises from a charge affecting the interest of any landlord.

#### Textual Amendments

**F247** Words in Sch. 1 para. 7(1)(a) inserted (1.7.1995) by 1994 c. 36, s. 21(1), **Sch. 1 para. 5(3)** (with s. 20); S.I. 1995/1317, **art. 2**

**F248** Words inserted by Housing Act 1980 (c. 51), **Sch. 21 para. 6**

**F249** Words repealed by Housing Act 1980 (c. 51), **Sch. 26**

**F250** Words repealed by Rentcharges Act 1977 (c. 30), s. 17(4), **Sch. 2**

[<sup>F251</sup>7A(1) The price payable for a minor superior tenancy shall be calculated (except where it has been determined by agreement or otherwise before this paragraph comes into force) by applying the formula set out in sub-paragraph (5) instead of in accordance with section 9.

- (2) “A minor superior tenancy” means a superior tenancy having an expectation of possession of not more than one month and in respect of which the profit rent is not more than £5 per year.

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- (3) “Profit rent” means an amount equal to that of the rent payable under the tenancy on which the minor superior tenancy is in immediate reversion, less that of the rent payable under the minor superior tenancy.
- (4) Where the minor superior tenancy or that on which it is in immediate reversion comprises property other than the house and premises, the reference in subparagraph (3) to the rent payable under it means so much of that rent as is apportioned to the house and premises.
- (5) The formula is—

$$P = \frac{R}{Y} \left( \frac{1 - Y^n}{1 - Y} \right)$$

where—

P= the price payable;

R= the profit rent;

Y= the yield (expressed as a decimal fraction) from 2½ per cent. Consolidated Stock;

n= the period, expressed in years (taking any part of a year as a whole year) which the minor superior tenancy would have to run if it were not extinguished by enfranchisement.

- (6) In calculating the yield from 2½ per cent. Consolidated Stock, the price of that stock shall be taken to be the middle market price at the close of business on the last trading day in the week before the tenant gives notice in accordance with this Act of his desire to have the freehold.]

**Textual Amendments**

**F251** Para. 7A inserted by [Housing Act 1980 \(c. 51\)](#), [Sch. 21 para. 6](#)

8

F252

**Textual Amendments**

**F252** [Sch. 1 para. 8](#) repealed by [Rentcharges Act 1977 \(c. 30\)](#), s. 17(6), [Sch. 2](#)

9

Nothing in this Schedule shall be taken to entitle the claimant to give notice under section 9(3) of this Act of his inability or unwillingness to acquire particular interests superior to the tenancy in possession, but any such notice shall extend to all those interests.

*Extension*

10

- (1) Where a lease is executed to give effect to section 14 of this Act, then except as provided by paragraph 11 below the new tenancy shall be granted by the landlord having an interest sufficient in point of duration which is not superior to another such interest.

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- (2) Subject to paragraph 11 below, the lease shall have effect for the creation of the new tenancy, and for the operation of the rights and obligations conferred and imposed by it, as if there had been a surrender and re-grant of any subsisting tenancy intermediate between the interest of the landlord granting the new tenancy and the tenancy in possession, and the covenants and other provisions of the lease shall be framed and take effect accordingly.
- (3) If there is no one landlord having such an interest in the whole of the house and premises as is referred to in sub-paragraph (1) above, then those having the appropriate interests in separate parts thereof shall instead grant the tenancy; and where it is necessary in accordance with this sub-paragraph for more than one landlord to join in granting the new tenancy, the lease shall have effect in accordance with sub-paragraph (2) above, but as if they had been jointly entitled to their interests and had become separately entitled by assignments taking effect immediately after the lease.
- (4) The lease shall give effect to section 15(2) of this Act on the basis that the references there to the landlord include the landlord granting the new tenancy, the immediate landlord of whom the new tenancy will be held and any intermediate landlord, and shall give effect to section 15(3) on the basis that account is to be taken of obligations imposed on any of those landlords by virtue of the new tenancy or any superior tenancy; and section 16(4) of this Act shall apply on the basis that the reference there to the tenant's landlord includes the immediate landlord of whom the new tenancy will be held and all superior landlords, including any superior to the landlord granting the new tenancy.
- 11 (1) Where a tenancy in the house and premises superior to the tenancy in possession is vested in the claimant or a trustee for him, the lease under section 14 of this Act shall include an actual surrender of that superior tenancy without a re-grant, and it shall accordingly be disregarded for purposes of paragraph 10 above.
- (2) Where, apart from this provision, the effect of the lease under section 14 of this Act would be, as regards any tenancy superior to the new tenancy,—
- (a) that the rent payable under that superior tenancy would be equal to or more than the rent payable under the tenancy on which it would be in immediate reversion (regard being had to the operation of this sub-paragraph in relation to any other tenancy); or
  - (b) that the difference between those rents would not be more than four pounds a year;
- then the person entitled to that superior tenancy may by written notice given to his immediate landlord and, if neither of them is the reversioner, to the reversioner require that the lease shall include an actual surrender by him of his tenancy without a re-grant.
- (3) Any person entitled to a tenancy superior to the new tenancy may by the like notice require that the lease shall confer on him the right to surrender his tenancy if by reason of any revision of the rent payable under the claimant's new tenancy (together with any consequent surrender under this provision of tenancies intermediate between the superior tenancy and that new tenancy) the rent payable under the superior tenancy will not thereafter be less by more than four pounds a year than the rent payable under the tenancy on which it will be in immediate reversion.
- (4) Where a landlord required apart from this sub-paragraph (or by virtue of this sub-paragraph as it operates in relation to another landlord) to grant the new tenancy

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would do so by virtue of a tenancy in respect of which he claims, by the like notice, to have the benefit of sub-paragraph (2) or (3) above, he shall for purposes of paragraph 10 above be replaced, subject to any further operation of this sub-paragraph, by the next superior landlord.

- (5) References in this paragraph to the rent payable under a tenancy mean, in relation to a tenancy comprising property other than the house and premises, so much of that rent as is apportionable to the house and premises, and any surrender or provision for the surrender of such a tenancy in accordance with this paragraph shall be limited to the house and premises.
- 12 (1) No provision of any tenancy prohibiting, restricting or otherwise relating to a sub-demise by the tenant shall have effect with reference to any lease executed to give effect to section 14 of this Act.
- (2) Where by reason of section 14(4) proviso of this Act it is necessary to make any payment to discharge the house and premises from a charge affecting the interest of any landlord, the reversioner, if he is not the landlord liable or primarily liable in respect of the charge, shall not be required to make that payment otherwise than out of money made available for the purpose by that landlord, and it shall be the duty of that landlord to provide for the charge being discharged.

#### *Supplementary*

- 13 (1) For purposes of this Schedule the expectation of possession carried by a tenancy is the expectation which it carries at the relevant time of possession after the tenancy in possession, on the basis that—
- (a) subject to sub-paragraph (2) below, the tenancy in possession terminates at the relevant time if its term date fell before then, or else terminates at its term date or (in the case of a tenancy which has been extended) its original term date; and
- (b) a tenancy other than the tenancy in possession terminates at its term date.
- (2) In a case where before the relevant time the claimant's immediate landlord had given notice to quit terminating the tenancy in possession at a date earlier than the term date, the date specified in the notice to quit shall be substituted for the date in sub-paragraph (1)(a) above.
- 14 (1) This Schedule shall apply notwithstanding that the tenancy in possession is a tenancy from the Crown within the meaning of section 33 of this Act; and, where under section 33(1)(b) the appropriate authority gives notice that as regards a Crown interest the authority will grant or concur in granting the freehold or an extended lease, then in relation to the Crown interest and the person to whom it belongs this Schedule shall have effect as it has effect in relation to other landlords and their interests, but with the appropriate authority having power to act as reversioner or otherwise for purposes of this Schedule on behalf of that person:
- Provided that paragraph 4(1)(a) above shall not apply to the execution of a conveyance or lease on behalf of the person to whom a Crown interest belongs.
- (2) A conveyance or lease executed in pursuance of paragraph 4(3) above shall be effective notwithstanding that the interest intended to be conveyed or bound is a Crown interest or a tenancy from the Crown.

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## SCHEDULE 2 E+W

Sections 17, 18, 20, 21, 23 and 25.

### PROVISIONS SUPPLEMENTARY TO SECTIONS 17 AND 18 OF THIS ACT

- 1 (1) This Schedule has effect where a tenant of a house and premises is entitled to be paid compensation under section 17 or 18 of this Act, or would be so entitled on the landlord obtaining an order for possession, or where an application for such an order is dismissed or withdrawn; and for purposes of this Schedule—
- (a) “application for possession” means a landlord’s application under section 17(1) or 18(1); and
- (b) “order for possession” means an order under section 17(2) or 18(4).
- (2) Where the tenancy has not been extended under section 14 of this Act, references in this Schedule to the original term date shall be construed as references to the term date or, in a case where before the relevant time the landlord had given notice to quit terminating the tenancy at a date earlier than the term date, as references to the date specified in the notice to quit.
- 2 (1) Where an order for possession is made, the tenancy shall determine, and the compensation payable to the tenant by virtue of the order shall become payable, on such date as may, when the amount of that compensation is known, be fixed by order of the court made on the application either of the landlord or of the tenant.
- (2) An order of the court under this paragraph shall not fix a date earlier than the original term date of the tenancy, nor shall it fix a date less than four months or more than twelve months after the date of the order unless the court sees special reason for doing so; and in a case under section 18 of this Act an application to [<sup>F253</sup>the appropriate tribunal] to determine the amount of the compensation payable to the tenant shall not be made more than twelve months before the original term date.
- (3) In fixing the date the court shall have regard to the conduct of the parties and, in a case under section 17 of this Act, to the extent to which the landlord has made reasonable preparations for proceeding with the redevelopment (including the obtaining of or preparations relating to the obtaining of any requisite permission or consent, whether from any authority whose permission or consent is required under any enactment or from the owner of an interest in any property).
- (4) The court may by order direct that the whole or part of the compensation payable to the tenant shall be paid into court, if the court thinks it expedient so to do for the purpose of ensuring that the sum paid is available for meeting charges on the tenant’s interest in the house and premises, or for the purpose of division, or for any other purpose.

#### Textual Amendments

**F253** Words in [Sch. 2 para. 2\(2\)](#) substituted (1.7.2013) by [The Transfer of Tribunal Functions Order 2013 \(S.I. 2013/1036\)](#), art. 1, [Sch. 1 para. 11](#) (with [Sch. 3](#))

- 3 (1) On the termination of a tenancy under an order for possession there shall terminate also any immediate or derivative sub-tenancy, and the tenant shall be bound to give up possession of the house and premises to the landlord except in so far as he is precluded from doing so by the rights of other persons to retain possession under or by virtue of any enactment.

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- (2) Where a sub-tenancy of property comprised in the tenancy has been created after the date of the application for possession (or any earlier date when, in the case of an application relying on section 28(1) of this Act, a copy of the Minister's certificate was served on the tenant), then no person shall in respect of that sub-tenancy be entitled under [F254[F255 subsection (2) of section 137 of the M57 Rent Act 1977], or any enactment (including [F256 subsection (5)] of that section)] applying or extending it, [F257 or under subsection (2) of section 9 of the M58 Rent (Agriculture) Act 1976 as extended by subsection (5) of that section] to retain possession of that property after the termination of the tenancy under the order for possession.
- (3) In exercising its jurisdiction under section 17 or 18 of this Act or this Schedule the court shall assume that the landlord, having obtained an order for possession, will not be precluded from obtaining possession by the right of any person to retain possession by virtue of [F258[F259 Part VII of the M59 Rent Act 1977] or any enactment applying or extending that Part of that Act][F260 or of the M60 Rent (Agriculture) Act 1976] or otherwise.
- (4) A person in occupation of the house and premises or part of them under a sub-tenancy liable to terminate under sub-paragraph (1) above may, with the leave of the court, appear and be heard on any application for possession or application under paragraph 2 above.

#### Textual Amendments

- F254** Words substituted by [Rent Act 1968 \(c. 23\)](#), [Sch. 15](#); continued by [Rent Act 1977 \(c. 42\)](#), [Sch. 24 para. 30](#)
- F255** Words substituted by [Rent Act 1977 \(c. 42\)](#), s. 155(2), [Sch. 23 para. 45](#)
- F256** Words substituted by [Rent \(Agriculture\) Act 1976 \(c. 80\)](#), [Sch. 8 para. 18 \(a\)](#)
- F257** Words inserted by [Rent \(Agriculture\) Act 1976 \(c. 80\)](#), [Sch. 8 para. 18 \(a\)](#)
- F258** Words substituted by [Rent Act 1968 \(c. 23\)](#), [Sch. 15](#); continued by [Rent Act 1977 \(c. 42\)](#), [Sch. 24 para. 30](#)
- F259** Words substituted by [Rent Act 1977 \(c. 42\)](#), s. 155(2), [Sch. 23 para. 45](#)
- F260** Words inserted by [Rent \(Agriculture\) Act 1976 \(c. 80\)](#), [Sch. 8 para. 18 \(b\)](#)

#### Marginal Citations

- M57** 1977 c. 42.
- M58** 1976 c. 80.
- M59** 1977 c. 42.
- M60** 1976 c. 80.

- 4 Where an order has been made under paragraph 2 above, the court <sup>F261</sup>... shall have jurisdiction to hear and determine any proceedings brought by virtue of the order to recover possession of the property or to recover the compensation, notwithstanding that by reason of the value of the property or the amount of the compensation the proceedings are not within the jurisdiction conferred on [F262 the county court] apart from this provision.

#### Textual Amendments

- F261** Words in [Sch. 2 para. 4](#) omitted (22.4.2014) by virtue of [Crime and Courts Act 2013 \(c. 22\)](#), s. 61(3), [Sch. 9 para. 99\(a\)](#); S.I. 2014/954, art. 2(c) (with art. 3) (with transitional provisions and savings in S.I. 2014/956, arts. 3-11)



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**F262** Words in Sch. 2 para. 4 substituted (22.4.2014) by [Crime and Courts Act 2013 \(c. 22\)](#), s. 61(3), [Sch. 9 para. 99\(b\)](#); [S.I. 2014/954](#), art. 2(c) (with art. 3) (with transitional provisions and savings in [S.I. 2014/956](#), arts. 3-11)

- 5 (1) The amount payable to a tenant, by virtue of an order for possession, by way of compensation for the loss of the house and premises shall be the amount which, if sections 17 and 18 of this Act had not been passed, the house and premises, if sold in the open market by a willing seller, might at the date when the order for possession becomes final be expected to realise, on the assumption that the vendor was selling the tenancy, and was selling—
- (a) subject to the rights of any person who will on the termination of the tenancy be entitled to retain possession as against the landlord, but otherwise with vacant possession; and
  - (b) subject to any subsisting incumbrances which will not terminate with the tenancy and for which during the continuance of the tenancy the tenant is liable without having a right to be indemnified by the landlord, 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 tenancy) to limit the uses of the house and premises to those to which they have been put since the commencement of the tenancy and to preclude the erection of any new dwelling-house or any other building not ancillary to the house as a dwelling-house;
- but there shall be left out of account any value attaching to the right to acquire the freehold under Part I of this Act.
- (2) The compensation payable in respect of a tenancy which has not been extended under section 14 of this Act shall be computed as if the tenancy was to be so extended.
- 6 (1) Part I of the <sup>M61</sup>Landlord and Tenant Act 1927 (compensation for improvements on termination of business tenancies) shall not apply on the termination of the tenancy or any sub-tenancy in accordance with this Schedule; and a request for a new tenancy under section 26 of the <sup>M62</sup>Landlord and Tenant Act 1954 in respect of the tenancy or any sub-tenancy shall be of no effect if made after the application for possession, or shall cease to have effect on the making of that application.
- (2) Where a sub-tenancy terminating with the tenancy in accordance with paragraph 3 above is one to which Part II of the <sup>M63</sup>Landlord and Tenant Act 1954 applies, the compensation payable to the tenant shall be divided between him and the sub-tenant in such proportions as may be just, regard being had to their respective interests in the house and premises and to any loss arising from the termination of those interests and not incurred by imprudence.
- (3) Where the amount of the compensation payable to the tenant is agreed between him and the landlord without the consent of a sub-tenant entitled under sub-paragraph (2) above to a share in the compensation, and is shown by the sub-tenant to be less than might reasonably have been obtained by the tenant, the sub-tenant shall be entitled under sub-paragraph (2) above to recover from the tenant such increased share as may be just.

#### Marginal Citations

**M61** 1927 c. 36.

**M62** 1954 c. 56.

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**M63** 1954 c. 56.

- 7 (1) The landlord shall not be concerned with the application of the amount payable to the tenant by way of compensation under an order for possession, but (subject to any statutory requirements as to payment of capital money arising under a settlement or [F263trust of land] and to any order under paragraph 2(4) above for payment into court) the written receipt of the tenant shall be a complete discharge for the amount payable.
- (2) The landlord shall be entitled to deduct from the amount so payable to the tenant—
- (a) the amount of any sum payable by way of rent or recoverable as rent in respect of the house and premises up to the termination of the tenancy; and
  - (b) the amount of any other sums due and payable by the tenant to the landlord under or in respect of the tenancy or any agreement collateral thereto.
- (3) Where the tenancy is [F264subject to a trust of land], and compensation is paid in respect of it in accordance with section 17 or 18 of this Act (whether possession is obtained under that section or without any application for possession), the sum received shall be dealt with as if it were proceeds of sale arising under the trust.

**Textual Amendments**

**F263** Words in *Sch. 2 para. 7(1)* substituted (1.1.1997) by 1996 c. 47, s. 25(1), *Sch. 3 para. 10(c)(i)* (with ss. 24(2), 25(4)(5)); S.I. 1996/2974, *art. 2*

**F264** Words in *Sch. 2 para. 7(3)* substituted (1.1.1997) by 1996 c. 47, s. 25(1), *Sch. 3 para. 10(c)(ii)* (with ss. 24(2), 25(4)(5)); S.I. 1996/2974, *art. 2*

- 8 (1) Where a landlord makes an application for possession, and it is made to appear to the court that in relation to matters arising out of that application (including the giving up of possession of the house and premises or the payment of compensation) the landlord or the tenant has been guilty of any unreasonable delay or default, the court may—
- (a) by order revoke or vary, and direct repayment of sums paid under, any provision made by a previous order as to payment of the costs of proceedings taken in the court on or with reference to the application, or, where costs have not been awarded, award costs;
  - (b) certify particulars of the delay or default to the [F265Upper Tribunal] with a view to enabling the Tribunal to exercise a like discretion in relation to costs of proceedings before the Tribunal.
- [F266(1A) Where the court certifies particulars of delay or default to the [F267Upper Tribunal] under sub-paragraph (1)(b) above, the [F267Upper Tribunal] may make any order as to costs of proceedings before the [F267Upper Tribunal] which the court may make in relation to proceedings in the court.]
- (2) ..... F268
- (3) Where an application for possession is dismissed or withdrawn, and it is made to appear to the court—
- (a) that the application was not made in good faith; or
  - (b) that the landlord had attempted in any material respect to support by misrepresentation or the concealment of material facts a request to the tenant to deliver up possession without an application for possession;

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the court may order that no further application for possession of the house and premises made by the landlord shall be entertained if it is made within the five years beginning with the date of the order.

#### Textual Amendments

- F265** Words in Sch. 2 para. 8(1)(b) substituted (1.6.2009) by [The Transfer of Tribunal Functions \(Lands Tribunal and Miscellaneous Amendments\) Order 2009 \(S.I. 2009/1307\)](#), art. 1, **Sch. 1 para. 86** (with Sch. 5)
- F266** Sch. 2 para. 8(1A) inserted (30.9.2003 for E., 30.3.2004 for W.) by [Commonhold and Leasehold Reform Act 2002 \(c. 15\)](#), s. 181(1), **Sch. 13 para. 6**; S.I. 2003/1986, art. 2(c)(i) (with Sch. 2); S.I. 2004/669, art. 2(c)(i) (with Sch. 2)
- F267** Words in Sch. 2 para. 8(1A) substituted (1.6.2009) by [The Transfer of Tribunal Functions \(Lands Tribunal and Miscellaneous Amendments\) Order 2009 \(S.I. 2009/1307\)](#), art. 1, **Sch. 1 para. 86** (with Sch. 5)
- F268** Sch. 2 para. 8(2) repealed by [Housing Act 1980 \(c. 51\)](#), **Sch. 26**

- 9 (1) The purposes authorised for the application of capital money by section 73 of the <sup>M64</sup>Settled Land Act 1925 <sup>F269</sup>. . . and the purposes authorised by section 71 of the Settled Land Act 1925 <sup>F269</sup>. . . as purposes for which moneys may be raised by mortgage, shall include the payment of compensation in accordance with section 17 or 18 of this Act (whether possession is obtained under that section or without any application for possession).
- (2) The purposes authorised for the application of capital money by section 26 of the <sup>M65</sup>Universities and College Estates Act 1925, and the purposes authorised by section 31 of that Act as purposes for which moneys may be raised by mortgage, shall include the payment of compensation in accordance with section 17 of this Act (whether possession is obtained under that section or without any application for possession).

#### Textual Amendments

- F269** Words in Sch. 2 para. 9(1) repealed (1.1.1997) by [1996 c. 47](#), s. 25(2), **Sch. 4** (with ss. 24(2), 25(4)(5)); S.I. 1996/2974, **art. 2**

#### Marginal Citations

- M64** 1925 c. 18.  
**M65** 1925 c. 24.

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## SCHEDULE 3 **E+W**

Sections 22 and 34.

### VALIDITY OF TENANTS’ NOTICES, EFFECT ON LANDLORD AND TENANT ACT 1954 ETC. AND PROCEDURE GENERALLY

#### PART I **E+W**

*Restrictions on claims by tenant, and effect of claims on other notices, forfeitures, etc.*

- 1 (1) A claim to acquire the freehold or an extended lease of any property shall be of no effect if made after the tenant has given notice terminating the tenancy of that property (not being a notice that has been superseded by the grant, express or implied, of a new tenancy), or if made during the subsistence of an agreement for a future tenancy to which section 28 of the <sup>M66</sup>Landlord and Tenant Act 1954 [<sup>F270</sup>or paragraph 17 of Schedule 10 to the Local Government and Housing Act 1989] applies.
- (2) A tenant’s notice terminating the tenancy of any property, shall be of no effect if given during the currency of a claim made in respect of the tenancy to acquire the freehold or an extended lease of that property.
- (3) In sub-paragraphs (1) and (2) above references to a notice terminating a tenancy include a tenant’s request for a new tenancy under section 26 of the Landlord and Tenant Act 1954, and a tenant’s notice under section 27(1) of that Act that he does not desire the tenancy to be continued.

#### Textual Amendments

**F270** Words inserted by [Local Government and Housing Act 1989 \(c. 42, SIF 75:1\), s. 194\(1\), Sch. 11 para. 13\(1\)](#)

#### Marginal Citations

**M66** [1954 c. 56.](#)

- 2 [<sup>F271</sup>(1) Sub-paragraphs (1A) to (1E) below apply where a landlord’s notice terminating the tenancy of any property has been given under section 4 or 25 of the Landlord and Tenant Act 1954 or served under paragraph 4(1) of Schedule 10 to the Local Government and Housing Act 1989 (whether or not that notice has effect to terminate the tenancy).
  - (1A) A claim to acquire the freehold or an extended lease of the property shall be of no effect if made after the relevant time, but this sub-paragraph is subject to sub-paragraphs (1D) and (1E) below.
  - (1B) In this paragraph (but subject to sub-paragraph (1C) below) “the relevant time” is the end of the period of two months beginning with the date on which the landlord’s notice terminating the tenancy has been given or served.
  - (1C) Where—
    - (a) a landlord’s notice terminating the tenancy has been given under section 25 of the Landlord and Tenant Act 1954, and
    - (b) the tenant applies to the court under section 24(1) of that Act for an order for the grant of a new tenancy before the end of the period of two months mentioned in sub-paragraph (1B) above,

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“the relevant time” is the time when the application is made.

- (1D) Sub-paragraph (1A) above shall not apply where the landlord gives his written consent to the claim being made after the relevant time.
- (1E) Where a tenant, having given notice of a desire to have the freehold, gives after the relevant time a further notice under section 9(3) of this Act of his inability or unwillingness to acquire the house and premises at the price he must pay, he may with the notice under section 9(3) give a notice of his desire to have an extended lease (if he then has a right to such a lease).]
- (2) A landlord’s notice terminating a tenancy of any property under section 4 or 25 of the <sup>M67</sup>Landlord and Tenant Act 1954 [<sup>F272</sup>or under paragraph 4(1) of Schedule 10 to the Local Government and Housing Act 1989] shall be of no effect if given [<sup>F272</sup>or served] during the currency of a claim made in respect of the tenancy to acquire the freehold or an extended lease of that property, and shall cease to have effect on the making of such a claim.
- (3) Where any such landlord’s notice ceases (by virtue of sub-paragraph (2) above <sup>F273</sup> . . .) to have effect on the making of a claim, but the claim is not effective, then if within one month after the period of currency of that claim (or any subsequent claim made by virtue of the proviso to sub-paragraph (1) above) a landlord’s notice terminating the tenancy is given under section 4 or 25 of the Landlord and Tenant Act 1954 [<sup>F274</sup>or served under paragraph 4(1) of Schedule 10 to the Local Government and Housing Act 1989], the earliest date which may be specified therein as the date of termination shall be [<sup>F275</sup>the date of termination specified in the previous notice or the expiration of three months from the giving of the new notice, whichever is the later.
  - (i) in the case of a notice given under the said Act of 1954]the date of termination specified in the previous notice or the expiration of three months from the giving of the new notice, whichever is the later
  - <sup>F276</sup>(ii) in the case of a notice served under the said Schedule 10, the date of termination specified in the previous notice or the expiration of the period of four months beginning on the date of service of the new notice, whichever is the later].
- (4) Where by virtue of sub-paragraph (3) above a landlord’s notice specifies as the date of termination of a tenancy a date earlier than six months after the giving of the notice, then—
  - (a) if it is a notice proposing a statutory tenancy, section 7(2) of the Landlord and Tenant Act 1954 shall apply in relation to the notice with the substitution, for references to the period of two months ending with the date of termination specified in the notice and the beginning of that period, of references to the period of three months beginning with the giving of the notice and the end of that period; <sup>F277</sup> ...
  - <sup>F277</sup>(b) .....

**Textual Amendments**

- F271** Sch. 3 para. 2(1)-(1E) substituted for Sch. 3para. 2(1) (1.6.2004) by [The Regulatory Reform \(Business Tenancies\) \(England and Wales\) Order 2003 \(S.I. 2003/3096\)](#), art. 1(3), **Sch. 5 para. 11**
- F272** Words inserted by [Local Government and Housing Act 1989 \(c. 42, SIF 75:1\)](#), s. 194(1), **Sch. 11 para. 13(2)(b)**

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- F273** Words in Sch. 3, para. 2(3) repealed (5.11.1993) by 1993 c. 50, s. 1(1), **Sch. 1 Pt. XIII** Group 1
- F274** Words inserted by Local Government and Housing Act 1989 (c. 42, SIF 75:1), s. 194(1), **Sch. 11 para. 13(2)(c)(i)**
- F275** Words inserted by Local Government and Housing Act 1989 (c. 42, SIF 75:1), s. 194(1), **Sch. 11 para. 13(2)(c)(ii)**
- F276** Sch. 3 para. 2(3)(ii) added by Local Government and Housing Act 1989 (c. 42, SIF 75:1), s. 194(1), **Sch. 11 para. 13(2)(c)(iii)**
- F277** Sch. 3 para. 2(4)(b) and word repealed (1.6.2004) by The Regulatory Reform (Business Tenancies) (England and Wales) Order 2003 (S.I. 2003/3096), art. 1(3), **Sch. 6**

#### Marginal Citations

**M67** 1954 c. 56.

[<sup>F278</sup>2A(1) If—

- (a) the landlord commences proceedings under Part 2 of the Landlord and Tenant Act 1954; and
  - (b) the tenant subsequently makes a claim to acquire the freehold or an extended lease of the property; and
  - (c) paragraph 2 above does not render the claim of no effect,
- no further steps shall be taken in the proceedings under Part 2 otherwise than for their dismissal and for the making of any consequential order.

- (2) Section 64 of the Landlord and Tenant Act 1954 shall have no effect in a case to which sub-paragraph (1) above applies.]

#### Textual Amendments

**F278** Sch. 3 para. 2A inserted (1.6.2004) by The Regulatory Reform (Business Tenancies) (England and Wales) Order 2003 (S.I. 2003/3096), art. 1(3), **Sch. 5 para. 12**

- 3 (1) Where a tenant makes a claim to acquire the freehold or an extended lease of any property, then during the currency of the claim and for three months thereafter the tenancy in that property shall not terminate either by effluxion of time or in pursuance of a notice to quit given by the landlord or by the termination of a superior tenancy; but if the claim is not effective, and but for this sub-paragraph the tenancy would have so terminated before the end of those three months, the tenancy shall so terminate at the end of the three months.
- (2) Sub-paragraph (1) above shall not be taken to prevent an earlier termination of the tenancy in any manner not there mentioned, nor affect the power under section 146(4) of the <sup>M68</sup>Law of Property Act 1925 to grant a tenant relief against the termination of a superior tenancy, or any right of the tenant to relief under section 16(2) of the Landlord and Tenant Act 1954 or under paragraph 9 of Schedule 5 to that Act.
- [<sup>F279</sup>(3) The reference in sub-paragraph (2) above to section 16(2) of, and paragraph 9 of Schedule 5 to, the Landlord and Tenant Act <sup>M69</sup>1954 includes a reference to those provisions as they apply in relation to Schedule 10 to the Local Government and Housing Act <sup>M70</sup>1989.]



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#### **Textual Amendments**

**F279** Sch. 3 para. 3(3) inserted by [Local Government and Housing Act 1989 \(c. 42, SIF 75:1\)](#), s. 194(1), **Sch. 11 para. 13(3)**

#### **Marginal Citations**

**M68** 1925 c. 20.

**M69** 1954 c.56 (75:1).

**M70** 1989 c.42 (75:1).

- 4 (1) Where a tenant makes a claim to acquire the freehold or an extended lease of any property, then during the currency of the claim no proceedings to enforce any right of re-entry or forfeiture terminating the tenancy shall be brought in any court without the leave of that court, and leave shall not be granted unless the court is satisfied that the claim was not made in good faith; but where leave is granted, the claim shall cease to have effect.
- (2) Where a claim is made to acquire the freehold or an extended lease of property comprised in a tenancy, the tenancy shall be deemed for purposes of the claim to be a subsisting tenancy notwithstanding that the claim is made when proceedings are pending to enforce a right of re-entry or forfeiture terminating the tenancy and notwithstanding any order made afterwards in those proceedings, and if the claim is effective, the court in which the proceedings were brought may set aside or vary any such order to such extent and on such terms as appear to that court to be appropriate:
- Provided that if it appears to that court that the claim is not made in good faith, or there has been unreasonable delay in making it, and that apart from the claim effect should be given to the right of re-entry or forfeiture, the court shall order that the tenancy shall not be treated as subsisting nor the claim as valid by virtue of this sub-paragraph.
- (3) Where a court other than the county court—
- (a) grants leave under sub-paragraph (1) above; or
  - (b) makes an order under the proviso to sub-paragraph (2) above on the ground that a claim was not made in good faith;
- the court may make any such order as the county court is authorised to make by section 20(5) or (6) of this Act.
- (4) A tenant who, in proceedings to enforce a right of re-entry or forfeiture or a right to damages in respect of a failure to comply with any terms of the tenancy, applies for relief under section 16 of the <sup>M71</sup>Landlord and Tenant Act 1954 is not thereby precluded from making a claim to acquire the freehold or an extended lease; but if he gives notice under section 16(2) (under which the tenant is relieved from any order for recovery of possession or for payment of damages, but the tenancy is cut short), any claim made by him to acquire the freehold or an extended lease of property comprised in the tenancy, with or without other property, shall be of no effect, or, if already made, shall cease to have effect.
- (5) Sub-paragraph (4) above shall apply in relation to proceedings relating to a superior tenancy with the substitution for the references to section 16 and to section 16(2) of the Landlord and Tenant Act 1954 of references to paragraph 9 and to paragraph 9(2) of Schedule 5 to that Act.



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- [<sup>F280</sup>(6) The references in this paragraph—
- (a) to section 16 of the Landlord and Tenant Act <sup>M72</sup>1954 and subsection (2) of that section, and
  - (b) paragraph 9 of Schedule 5 to that Act and sub-paragraph (2) of that paragraph,
- include references to those provisions as they apply in relation to Schedule 10 to the Local Government and Housing Act <sup>M73</sup>1989.]

#### Textual Amendments

**F280** Sch. 3 para. 3(6) inserted by [Local Government and Housing Act 1989 \(c. 42, SIF 75:1\)](#), s. 194(1), [Sch. 11 para. 13\(4\)](#)

#### Marginal Citations

**M71** 1954 c. 56.

**M72** 1954 c.56 (75:1).

**M73** 1989 c.42 (75:1).

- 5 (1) For purposes of this Part of this Schedule—
- (a) references to a claim to acquire the freehold or an extended lease shall be taken as references to a notice of a person’s desire to acquire it under Part I of this Act and, except in so far as the contrary intention appears, as including a claim made by a tenant not entitled to acquire it and a claim made by a person who is not a tenant; and
  - (b) references to a claim being effective shall be taken as references to the freehold or an extended lease being acquired in pursuance of the claim; and
  - (c) references to the currency of a claim shall be taken as references to the period from the giving of a notice which has effect or would, if valid, have effect to the time when the notice is effective or ceases to have effect, or (not being a valid notice) is set aside by the court or withdrawn or would, if valid, cease to have effect, and those references shall include any period when the notice is suspended.
- (2) For purposes of subparagraph (1)(c) above the date when a notice ceases to have effect or is set aside or would, if valid, cease to have effect in consequence of an order of a court shall be taken to be the date when the order becomes final.

## PART II **E+W**

### *Procedural Provisions*

- 6 (1) A tenant’s notice under Part I of this Act of his desire to have the freehold or an extended lease of a house and premises shall be in the prescribed form, and shall contain the following particulars:—
- (a) the address of the house, and sufficient particulars of the house and premises to identify the property to which the claim extends;
  - (b) such particulars of the tenancy and [<sup>F281</sup>, in the case of a tenancy falling within section 4(1)(i) of this Act,] of the rateable value of the house and premises as serve to identify the instrument creating the tenancy and show that

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- [<sup>F282</sup>(i)] (apart from the operation, if any, of the proviso to section 4(1) of this Act) the tenancy is and has at the material times been a long tenancy at a low rent;
- [<sup>F282</sup>(ii) at the material time the rateable value was within the limits specified for the purposes of section 1;]
- (c) the date on which the tenant acquired the tenancy;
- <sup>F283</sup>(d) .....
- [<sup>F284</sup>(e) in the case of a tenancy falling within section 1(1)(a)(ii) of this Act, the premium payable as a condition of the grant of the tenancy.]
- [<sup>F285</sup>(1A) [<sup>F286</sup>Where the tenant gives the notice by virtue of section 1AA of this Act, sub-paragraph (1) above shall have effect with the substitution for paragraph (b) of—
- (“ such particulars of the tenancy as serve to identify the instrument creating the tenancy and show that the tenancy is one in relation to which section 1AA(1) of this Act has effect to confer a right to acquire the freehold of the house and premises;” .]]
- (2) Where the tenant gives the notice by virtue of section 6 [<sup>F287</sup>, 6A] or 7 of this Act, sub-paragraph (1)(c) <sup>F288</sup> . . . above shall apply with the appropriate modifications of references to the tenant, so that the notice shall show the particulars bringing the case within section 6 [<sup>F287</sup>, 6A] or 7.
- (3) The notice shall not be invalidated by an inaccuracy in the particulars required by this paragraph or any misdescription of the property to which the claim extends; and where the claim extends to property not properly included in the house and premises, or does not extend to property that ought to be so included, the notice may with the leave of the court, and on such terms as the court may see fit to impose, be amended so as to exclude or include that property.

#### Textual Amendments

- F281** Words inserted by S.I. 1990/434, reg. 2, **Sch. para. 10(a)**
- F282** Words inserted (prosp.) by **Housing Act 1980 (c. 51)**, s. 153(4), **Sch. 21 para. 7**
- F283** Sch. 3 para. 6(1)(d) repealed (26.7.2002 for E. and 1.1.2003 for W.) by **2002 c. 15**, s. 180, **Sch. 14**; S.I. 2002/1912, art. 2(b)(ii), **Sch. 1 Pt. 3** (subject to transitional provisions and savings in Sch. 2 of the commencing S.I.); S.I. 2002/3012, art. 2(b)(ii), **Sch. 1 Pt. 3** (subject to transitional provisions and savings in Sch. 2 of the commencing S.I.)
- F284** Sch. 3 para. 6(1)(e) inserted by S.I. 1990/434, reg. 2, **Sch. para. 10(b)**
- F285** Sch. 3 Pt. II para. 6(1A) inserted (1.4.1997) by **1996 c. 52**, s. 106, **Sch. 9 para. 2(1)(8)**; S.I. 1997/618, **art. 2(1)** (with **Sch.**)
- F286** Sch. 3 para. 6(1A) repealed (7.9.2009 for E.) by **Housing and Regeneration Act 2008 (c. 17)**, s. 325(1), **Sch. 16**; S.I. 2009/2096, art. 2(2)(a)(c) (with art. 3(1)(2))
- F287** Words in Sch. 3 para. 6(2) inserted (26.7.2002 for E. and 1.1.2003 for W.) by **2002 c. 15**, s. 142(2); S.I. 2002/1912, **art. 2(a)** (subject to transitional provisions and savings in Sch. 2 of the commencing S.I.); S.I. 2002/3012, **art. 2(a)** (subject to transitional provisions and savings in Sch. 2 of the commencing S.I.)
- F288** Words in Sch. 3 para. 6(2) repealed (26.7.2002 for E. and 1.1.2003 for W.) by **2002 c. 15**, s. 180, **Sch. 14**; S.I. 2002/1912, art. 2(b)(ii), **Sch. 1 Pt. 3** (subject to transitional provisions and savings in Sch. 2 of the commencing S.I.); S.I. 2002/3012, art. 2(b)(ii), **Sch. 1 Pt. 3** (subject to transitional provisions and savings in Sch. 2 of the commencing S.I.)

- 7 (1) Where a tenant of a house gives the landlord notice in accordance with Part I of this Act of the tenant’s desire to have the freehold or an extended lease, the landlord shall

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within two months give the tenant a notice in reply in the prescribed form stating whether or not the landlord admits the tenant’s right to have the freehold or extended lease (subject to any question as to the correctness of the particulars given in the tenant’s notice of the house and premises); and if the landlord does not admit the tenant’s right, the notice shall state the grounds on which it is not admitted.

- (2) Subject to sub-paragraph (3) below, where under Part I of this Act the landlord may object to the inclusion of any part of the house and premises as described in the tenant’s notice, or may object to the exclusion of other property, the notice of his objection shall be given with or before his notice in reply, unless the right to give it later is reserved by the notice in reply.
- (3) If (on the assumption, where it is not admitted, that the tenant has the right claimed) it is intended to apply to the court for possession of the house and premises under section 17 or 18 of this Act, the notice in reply shall state that it is the intention to do so, and sub-paragraph (2) above shall not apply.
- (4) Where a landlord’s notice in reply admits the tenant’s right to have the freehold or extended lease of a house and premises, the admission shall be binding on the landlord, so far as relates to the matters [<sup>F289</sup>relevant to the existence of that right], unless the landlord shows that he was induced to make the admission by misrepresentation or the concealment of material facts; but the admission shall not conclude any question whether the particulars of the house and premises in the tenant’s notice are correct.
- (5) The tenant shall not institute proceedings in the court with a view to the enforcement of his right to have the freehold or an extended lease before the landlord has given his notice in reply or two months have elapsed without his doing so since the giving of the tenant’s notice.

#### Textual Amendments

**F289** Words in **Sch. 3 Pt. II para. 7(4)** substituted (1.4.1997) by 1996 c. 52, s. 106, **Sch. 9 para. 2(1)(9)**; S.I. 1997/618, **art. 2(1)** (with Sch.)

- 8 (1) Where a person (“the claimant”) gives notice as tenant of a house of his desire to have the freehold or an extended lease under Part I of this Act, —
  - (a) the notice shall be regarded as served on the landlord if it is served on any of the persons having an interest in the house and premises superior to the claimant’s tenancy and references to the relevant time shall be construed accordingly;
  - (b) copies of the notice shall be served by the claimant on any other persons known or believed by him to have such an interest;
  - (c) the notice shall state whether copies are being served in accordance with paragraph (b) above on anyone other than the recipient and, if so, on whom;
  - (d) a recipient of the notice or a copy of it (including a person receiving a copy under this paragraph), unless he is a person having no such interest, shall forthwith serve a copy on any person who is known or believed by him to have such an interest and is not stated in the recipient’s copy of the notice or known by him to have received a copy;
  - (e) a recipient of the notice or a copy of it shall, in any further copies served by him in accordance with paragraph (d) above, supplement the statement

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under paragraph (c) by adding any further persons on whom he is serving copies or who are known by him to have received one.

- (2) Any recipient of any such notice or a copy of it—
    - (a) if he serves further copies of it on other persons in accordance with sub-paragraph (1)(d) above, shall notify the claimant of the persons added by him to the statement under sub-paragraph (1)(c); and
    - (b) if he knows who is, or believes himself to be, the person designated as the reversioner by paragraph 2 of Schedule 1 to this Act, shall give written notice to the claimant stating who is thought by him to be the reversioner, and shall serve copies of it on all persons known or believed by him to have an interest superior to the claimant’s tenancy.
  - (3) Any person who fails without reasonable cause to comply with sub-paragraph (1) or (2) above, or is guilty of any unreasonable delay in doing so, shall be liable for any loss thereby occasioned to the claimant or to any person having an interest superior to the claimant’s tenancy.
  - (4) In this paragraph references to an interest superior to the claimant’s tenancy mean the estate in fee simple and any tenancy superior to the claimant’s tenancy, but shall apply also to a tenancy reversionary on the claimant’s tenancy.
- 9 (1) Where the interest of a landlord is subject to a charge, and the person entitled to the benefit of the charge is in possession or a receiver appointed by him or by the court is in receipt of the rents and profits, a notice by a tenant of his desire to have the freehold or an extended lease under Part I of this Act shall be duly given if served either on the landlord or on that person or any such receiver; but the landlord or that person, if not the recipient of the notice, shall forthwith be sent the notice or a copy of it by the recipient:
- Provided that in the case of a debenture-holders’ charge within the meaning of section 12(5) of this Act this sub-paragraph shall not authorise the service of a notice on, or require a notice or copy to be sent to, the persons entitled to the benefit of the charge, other than trustees for the debenture-holders, but where the notice is served on the landlord and there is no trustee for the debenture-holders, he shall forthwith send it or a copy of it to any receiver appointed by virtue of the charge.
- (2) Where a tenant of a house gives notice of his desire to have the freehold or an extended lease under Part I of this Act, and the interest of the person to whom the notice is given, or of any person receiving a copy of it under paragraph 8 above, is subject to a charge to secure the payment of money, then subject to sub-paragraph (3) below the recipient of the notice or copy shall forthwith inform the person entitled to the benefit of the charge (unless the notice was served on him or a receiver appointed by virtue of the charge) that the notice has been given, and shall give him such further information as may from time to time be reasonably required from the recipient by him.
  - (3) References in sub-paragraph (2) above to a charge shall not include a charge falling within section 11 of this Act or a debenture-holders’ charge within the meaning of section 12(5) of this Act.
- 10 (1) This paragraph shall have effect in relation to a landlord’s notice terminating a tenancy of a house under section 4 or 25 of the <sup>M74</sup>Landlord and Tenant Act 1954 [<sup>F290</sup> or under paragraph 4(1) of Schedule 10 to the Local Government and Housing Act 1989] if—

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- (a) no previous notice terminating the tenancy has been given under [<sup>F291</sup>any of those provisions]; and
  - (b) in the case of a notice under section 25, the tenancy is a long tenancy at a low rent, and the tenant is not a company or other artificial person.
- (2) The landlord’s notice shall not have effect unless it states—
- (a) that, if the tenant has a right under Part I of this Act to acquire the freehold or an extended lease of property comprised in the tenancy, notice of his desire to have the freehold or an extended lease cannot be given more than two months after the service of the landlord’s notice; and
  - (b) that, in the event of a tenant having that right and giving such a notice within those two months, the landlord’s notice will not operate; and
  - (c) that, in the event of the tenant giving such a notice within those two months, the landlord will be entitled to apply to the court under section 17 or 18 of this Act and proposes to do so or, as the case may be, will not be entitled or does not propose to do so.
- [<sup>F292</sup>(2A) If the landlord’s notice is under section 25 of the Landlord and Tenant Act 1954, sub-paragraph (2) above shall effect in relation to it as if in paragraph (b), after the word “operate” there were inserted the words “and no further proceedings may be taken by him under Part 2 of the Landlord and Tenant Act 1954.”]
- (3) The landlord shall also in the notice give the names and addresses of any other persons known or believed by him to have an interest superior to the tenancy terminated by the notice or to be the agent concerned with the property on behalf of a person having such an interest; and for this purpose “an interest superior to the tenancy terminated by the notice” means the estate in fee simple and any tenancy superior to that tenancy, but includes also a tenancy reversionary on that tenancy.
- (4) Where a tenant’s notice of his desire to have the freehold or an extended lease of a house and premises under Part I of this Act is given after the service of a landlord’s notice terminating the tenancy under section 4 or section 25 of the Landlord and Tenant Act 1954 [<sup>F293</sup>or under paragraph 4(1) of Schedule 10 to the Local Government and Housing Act 1989], and the landlord’s notice does not comply with sub-paragraph (2) above, no application made under section 17 or 18 of this Act with respect to the house and premises by the landlord giving the notice shall be entertained by the court (other than an application under section 17 after the grant of an extended lease).
- (5) This paragraph shall not apply, <sup>F294</sup> . . . , to a landlord’s notice given before the appointed day.

#### Textual Amendments

- F290** Words inserted by [Local Government and Housing Act 1989 \(c. 42, SIF 75:1\)](#), s. 194(1), **Sch. 11 para. 13(5)(a)**
- F291** Words substituted by [Local Government and Housing Act 1989 \(c. 42, SIF 75:1\)](#), s. 194(1), **Sch. 11 para. 13(5)(a)**
- F292** [Sch. 3 para. 10\(2A\)](#) inserted (1.6.2004) by [The Regulatory Reform \(Business Tenancies\) \(England and Wales\) Order 2003 \(S.I. 2003/3096\)](#), art. 1(3), **Sch. 5 para. 13**
- F293** Words inserted by [Local Government and Housing Act 1989 \(c. 42, SIF 75:1\)](#), s. 194(1), **Sch. 11 para. 13(5)(b)**
- F294** Words in [Sch. 3 para. 10\(5\)](#) repealed (5.11.1993) by [1993 c. 50, s. 1\(1\)](#), **Sch. 1 Pt. XIII** Group1

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### Marginal Citations

M74 1954 c. 56.

## SCHEDULE 4 E+W

Sections 29 and 30.

### SPECIAL COVENANTS WITH LOCAL AUTHORITIES ETC. ON ENFRANCHISEMENT OR EXTENSION

#### PART I E+W

##### OPERATION AND ENFORCEMENT OF COVENANTS

- 1 (1) A covenant entered into in accordance with section 29 or 30 of this Act (in this Part of this Schedule referred to as “a relevant covenant”) shall not be enforceable by any means other than those provided by paragraphs 2 and 3 below.
- (2) A relevant covenant affecting land other than registered land—
- (a) may be registered under [<sup>F295</sup>section 2 of the <sup>M75</sup>Land Charges Act 1972] as a restrictive covenant, if apart from this sub-paragraph it would not be registrable under that section as a restrictive covenant or as an estate contract; and
  - (b) subject to [<sup>F295</sup>section 4] of that Act, shall be binding upon every successor of the covenantor, if apart from this sub-paragraph it would not be binding upon every such successor.
- (3) Where a relevant covenant affects registered land,—
- [<sup>F296</sup>(a) the covenant may be the subject of a notice in the register of title kept under the Land Registration Act 2002, if apart from this subsection it would not be capable of being the subject of such a notice; and]
  - (b) where [<sup>F297</sup>a notice in respect of the covenant has been entered in that register, it] shall be binding upon every successor of the covenantor, if apart from this subsection it would not be binding upon every such successor.
- (4) In sub-paragraphs (2) and (3) above “successor of the covenantor”, in relation to the covenants entered into on any disposition, means a person, other than the covenantor, who is for the time being entitled—
- (a) to the interest disposed of, either in the whole or in part of the property comprised in the disposition; or
  - (b) to an interest consisting of a tenancy (whether of the whole or of part of that property) which has been created (directly or indirectly) out of the interest disposed of.
- (5) Section 84 of the <sup>M76</sup>Law of Property Act 1925 (power to discharge or modify restrictive covenants affecting land) shall not have effect in relation to any relevant covenant.
- (6) The rule against perpetuities and any enactment relating to that rule shall not apply to any right conferred by, or exercisable in relation to, a relevant covenant, if apart from this sub-paragraph it would apply to any such right.



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- (7) Where any such interest as is mentioned in sub-paragraph (4)(a) or (b) above is acquired (whether compulsorily or by agreement) by an authority possessing compulsory purchase powers within the meaning of [<sup>F298</sup>the Town and Country Planning Act 1990] (including any government department), nothing in the enactment which authorises that acquisition, or in any other enactment conferring powers on that authority, shall be construed as relieving that authority from the obligation to comply with any relevant covenant to which that interest remains subject; but the rights of the covenantee shall for purposes of any such acquisition be treated as an interest in the land affected, and as capable of being, and liable to be, extinguished by being compulsorily acquired in like manner and subject to the like conditions as other interests of the covenantee would be.

#### Textual Amendments

**F295** Words substituted by virtue of [Land Charges Act 1972 \(c. 61\), s. 18\(6\)](#)

**F296** [Sch. 4 para. 1\(3\)\(a\)](#) substituted (13.10.2003) by [Land Registration Act 2002 \(c. 9\), s. 136\(2\), Sch. 11 para. 8\(3\)\(a\)](#) (with s. 129); S.I. 2003/1725, art. 2(1)

**F297** Words in [Sch. 4 para. 1\(3\)\(b\)](#) substituted (13.10.2003) by [Land Registration Act 2002 \(c. 9\), s. 136\(2\), Sch. 11 para. 8\(3\)\(b\)](#) (with s. 129); S.I. 2003/1725, art. 2(1)

**F298** Words substituted by virtue of [Planning \(Consequential Provisions\) Act 1990 \(c. 11, SIF 123:1\), s. 4, Sch. 2 para. 17\(2\)](#)

#### Marginal Citations

**M75** 1972 c. 61.

**M76** 1925 c. 20.

- 2 (1) Where it appears to a local authority that a relevant covenant entered into on a disposition by that authority has been broken, the authority may serve written notice under this paragraph on any one or more of the following persons, that is to say—
- (a) any person for the time being entitled to the interest disposed of either in the whole or in part of the land comprised in the disposition (in this paragraph referred to as “the land under covenant”); and
  - (b) any person entitled to an interest consisting of a tenancy (whether of the whole or of part of the land under covenant) which has been created (directly or indirectly) out of the interest disposed of.
- (2) A notice served on any person under sub-paragraph (1) above shall—
- (a) specify the covenant and the matters in respect of which it is alleged by the authority that the covenant has been broken; and
  - (b) state that, after the end of such period (not being less than six weeks from the date of service of the notice) as may be specified in the notice, the authority propose to execute a vesting declaration under paragraph 3 below in respect of that person’s interest in the land under covenant unless before the end of that period he serves on the authority a counter-notice under sub-paragraph (3) below.
- (3) Any person on whom a notice is served under sub-paragraph (1) above may, before the end of the period specified in the notice in accordance with sub-paragraph (2)
- (b) serve on the authority a counter-notice in writing objecting to the notice on such one or more of the following grounds as may be specified in the counter-notice, that is to say—



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- (a) that the relevant covenant specified in the notice under sub-paragraph (1) above has not been broken as alleged in the notice;
  - (b) that, if that covenant has been so broken, the breach does not relate to any part of the land under covenant in which the person serving the counter-notice has an interest;
  - (c) that in the circumstances he ought to be relieved against the execution of a vesting declaration under paragraph 3 below in respect of his interest.
- (4) Where a person has served a counter-notice under sub-paragraph (3) above and that counter-notice has not been withdrawn, the authority shall not execute a vesting declaration under paragraph 3 below in respect of his interest except with the leave of the court; and on any application for such leave—

  - (a) where the grounds of objection specified in the counter-notice consist of or include that which is specified in sub-paragraph (3)(a) or (b) above, the court shall not grant leave unless satisfied that the objection on that ground is not well-founded; and
  - (b) without prejudice to paragraph (a) above, where the grounds of objection specified in the counter-notice consist of or include that which is specified in sub-paragraph (3)(c) above, the court, if having regard to the conduct of the parties and to all the other circumstances it appears to the court to be just and equitable to do so, may refuse to grant leave, either unconditionally or on such terms (as to costs, damages or otherwise) as the court think fit.
- 3 (1) Where a local authority have served on any person a notice under paragraph 2 above in respect of such an interest as is mentioned in paragraph 2(1)(a) or (b), then subject to paragraph 2(4) above and to the provisions of any order made under it, the authority may execute a vesting declaration under this paragraph in respect of that interest—

  - (a) at any time within the six months following the end of the period specified in the notice in accordance with paragraph 2(2)(b), if no counter-notice under paragraph 2(3) is served before the end of that period; or
  - (b) if such a counter-notice is so served but is withdrawn, at any time within the six months following the withdrawal of the counter-notice; or
  - (c) if such a counter-notice is so served and is not withdrawn, at any time within the six months following the time when the order giving leave under paragraph 2(4) becomes final.<sup>3</sup>
- (2) A vesting declaration under this paragraph in respect of an interest in land shall be in such form as may be prescribed by regulations made by statutory instrument by [<sup>F299</sup>the Secretary of State].
- (3) Where a vesting declaration is executed under this paragraph the interest to which it relates shall vest in the authority on such date as is specified in that behalf in the declaration.
- (4) Any reference in the <sup>M77</sup>Land Compensation Act 1961 to the compulsory acquisition of land, or of an interest in land, shall be construed as including a reference to the execution of a vesting declaration under this paragraph in respect of an interest in land; and that Act shall apply in relation to the execution of such a declaration as if the authority, having been duly authorised to acquire that interest compulsorily in accordance with the [<sup>F300</sup>Acquisition of <sup>M78</sup>Land Act 1981], had served notice to treat in respect of that interest on the date of execution of the declaration.

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- (5) In assessing compensation in accordance with the Land Compensation Act 1961 in respect of an interest in land vested in a local authority by a vesting declaration under this paragraph—
- (a) nothing shall be included for damage sustained by reason that the land in which the interest subsists is severed from other land held therewith, or for disturbance or any other matter not directly based on the value of land or of an interest in land; and
  - (b) in a case where immediately before the execution of the declaration the interest is subject to a right of pre-emption under a covenant entered into in accordance with section 30(1)(b) of this Act, no account shall be taken of any diminution of the value of the interest which is attributable to that right.

#### Textual Amendments

**F299** Words substituted by virtue of S.I. 1970/1681, **art. 6(3)**

**F300** Words substituted by [Acquisition of Land Act 1981 \(c. 67\)](#), **Sch. 4 para. 1**

#### Marginal Citations

**M77** 1961 c. 33.

**M78** 1981 c. 67.

## PART II **E+W**

### RE-ACQUISITION FOR DEVELOPMENT BY [<sup>F301</sup>WELSH NEW TOWNS RESIDUARY BODY] OR UNIVERSITY BODY

#### Textual Amendments

**F301** Words in Sch. 4 Pt. II heading substituted (1.12.2008) by [Housing and Regeneration Act 2008 \(c. 17\)](#), s. 325(1), **Sch. 8 para. 11(2)**; S.I. 2008/3068, art. 2(1)(w)(3) (with arts. 6-13)

- 4 Where a tenant of a house and premises acquires the freehold under Part I of this Act subject to a covenant entered into under section 29(1) with the [<sup>F302</sup>Welsh new towns residuary body], and the property or any part of it is afterwards required for development for purposes (other than investment purposes) of [<sup>F303</sup>that body, the body] may <sup>F304</sup>... acquire the property or that part of it compulsorily; [<sup>F305</sup>and the Acquisition of Land Act 1981 shall apply to a compulsory purchase under this paragraph].

#### Textual Amendments

**F302** Words in Sch. 4 para. 4 substituted (1.12.2008) by [Housing and Regeneration Act 2008 \(c. 17\)](#), s. 325(1), **Sch. 8 para. 11(3)(a)**; S.I. 2008/3068, art. 2(1)(w)(3) (with arts. 6-13)

**F303** Words in Sch. 4 para. 4 substituted (1.12.2008) by [Housing and Regeneration Act 2008 \(c. 17\)](#), s. 325(1), **Sch. 8 para. 11(3)(b)**; S.I. 2008/3068, art. 2(1)(w)(3) (with arts. 6-13)

**F304** Words in Sch. 4 para. 4 repealed (1.12.2008) by [Housing and Regeneration Act 2008 \(c. 17\)](#), s. 325(1), **Sch. 8 para. 11(3)(c)**, **Sch. 16**; S.I. 2008/3068, art. 2(1)(w)(3), 5, Sch. (with arts. 6-13)

**F305** Words substituted by [Acquisition of Land Act 1981 \(c. 67\)](#), **Sch. 4 para. 16(2)**

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- 5 (1) Where a tenant of a house and premises acquires the freehold under Part I of this Act subject to a covenant entered into under section 29(1) with a university body, and the property or any part of it is afterwards required for development for the purposes (other than investment purposes) of that or a related university body, the Secretary of State for Education and Science may at the cost and on behalf of the university body for which it is required acquire the property or that part of it by compulsory purchase.
- [<sup>F306</sup>(2) The <sup>M79</sup>Acquisition of Land Act 1981 shall apply to a compulsory purchase under this paragraph].
- (3) For purposes of this paragraph a university and the colleges of that university (within the meaning of section 28(5)(c) of this Act) are university bodies related to one another.

#### Textual Amendments

**F306** Para. 5(2) substituted by [Acquisition of Land Act 1981 \(c. 67\)](#), **Sch. 4 para. 16(3)**

#### Marginal Citations

**M79** [1981 c. 67](#).

<sup>F307</sup>6 .....

#### Textual Amendments

**F307** Sch. 4 Pt. II para. 6 repealed (1.10.1998) by [1998 c. 38, s. 152](#), **Sch. 18 Pt. IV** (with [ss. 137\(1\), 139\(2\), 141\(1\), 143\(2\)](#)); [S.I. 1998/2244](#), **art. 4**

## [<sup>F308</sup>SCHEDULE 4A **E+W**

### EXCLUSION OF CERTAIN SHARED OWNERSHIP LEASES

#### Textual Amendments

**F308** Schedule 4A inserted by [Housing and Planning Act 1986 \(c. 63, SIF 75:1\)](#), s. 18, **Sch. 4 para. 6**

#### *Leases granted in pursuance of right to be granted a shared ownership lease*

- 1 A lease granted in pursuance of the right to be granted a shared ownership lease under Part V of the Housing Act <sup>M80</sup> 1985 is excluded from the operation of this Part of this Act.

#### Marginal Citations

**M80** [1985 c.68 \(61\)](#)

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*Certain leases granted by certain public authorities*

- <sup>F309</sup>2 (1) A lease which—
- (a) was granted at a premium by a body mentioned in sub-paragraph (2), and
  - (b) complies with the conditions set out in sub-paragraph (3),
- is excluded from the operation of this Part at any time when the interest of the landlord belongs to such a body [<sup>F310</sup>, to a relevant housing provider][<sup>F311</sup> or to a person who acquired that interest in exercise of the right conferred by Part IV of the Housing Act 1988].
- (2) The bodies are—
- (a) a county, [<sup>F312</sup>county borough,] district or London borough council, the Common Council of the City of London or the Council of the Isles of Scilly;
  - (b) .....<sup>F313</sup> a joint authority established by Part IV of the Local Government Act <sup>M81</sup>1985;
  - <sup>F314</sup>[ the London Fire and Emergency Planning Authority;]
  - (bb) [ a Mayoral development corporation;]
  - <sup>F315</sup>(bc) (c) the [<sup>F316</sup>new towns residuary body] or a development corporation established by an order made, or having effect as made, under the New Towns Act <sup>M82</sup>1981;
  - (d) an urban development corporation within the meaning of Part XVI of the Local Government, Planning and Land Act <sup>M83</sup>1980;
  - <sup>F317</sup>(e) ..... [ a housing action trust established under Part III of the Housing Act 1988]
  - <sup>F318</sup>(f)
- (3) The conditions are that the lease—
- (a) provides for the tenant to acquire the freehold for a consideration which is to be calculated in accordance with the lease and which is reasonable, having regard to the premium or premiums paid by the tenant under the lease, and
  - (b) states the landlord’s opinion that by virtue of this paragraph the tenancy will be excluded from the operation of this Part of this Act at any time when the interest of the landlord belongs to a body mentioned in sub-paragraph (2) above [<sup>F319</sup> or to a relevant housing provider] .
- (4) If, in proceedings in which it falls to be determined whether a lease complies with the condition in sub-paragraph (3)(a), the question arises whether the consideration payable by the tenant on acquiring the freehold is reasonable, it is for the landlord to show that it is.
- <sup>F320</sup>(5) In this paragraph “relevant housing provider” means—
- (a) in relation to a lease of social housing within the meaning of Part 2 of the Housing and Regeneration Act 2008, a private registered provider of social housing, or
  - (b) a registered social landlord within the meaning of Part 1 of the Housing Act 1996.]

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### Textual Amendments

- F309** Sch. 4A para. 2 extended (5.7.1994) by 1994 c. 19, ss. 39, 66(2)(b), **Sch. 13 para. 24(c)** (with ss. 54(5)(7), 55(5), **Sch. 17 paras. 22(1), 23(2)**)
- F310** Words in Sch. 4A para. 2(1) substituted (1.4.2010) by **The Housing and Regeneration Act 2008 (Consequential Provisions) Order 2010 (S.I. 2010/866)**, art. 1(2), **Sch. 2 para. 2(2)(a)** (with art. 6, Sch. 3)
- F311** Words added by **Housing Act 1988 (c. 50, SIF 61)**, s. 140, **Sch. 17 para. 17(1)**
- F312** Words in Sch. 4A para. 2(2)(a) inserted (1.4.1996) by 1994 c. 19, s. 22(2), **Sch. 8 para. 1(2)** (with ss. 54(5)(7), 55(5), **Sch. 17 paras. 22(1), 23(2)**); S.I. 1996/396, **art. 3 Sch. 1**
- F313** Words repealed by **Education Reform Act 1988 (c. 40, SIF 41:1)**, ss. 231(7), 235(6), 237, **Sch. 13 Pt. I**
- F314** Sch. 4A para. 2(bb) inserted (3.7.2000) by 1999 c. 29, s. 328(8), **Sch. 29 Pt. I para. 9** (with Sch. 12 para. 9(1)); S.I. 2000/1094, **art. 4(a)(h)**
- F315** Sch. 4A para. 2(2)(bc) inserted (15.1.2012) by **Localism Act 2011 (c. 20)**, s. 240(1)(l), **Sch. 22 para. 1**
- F316** Words in Sch. 4A para. 2(2)(c) substituted (1.12.2008) by **Housing and Regeneration Act 2008 (c. 17)**, s. 325(1), **Sch. 8 para. 12**; S.I. 2008/3068, art. 2(1)(w)(3) (with arts. 6-13)
- F317** Sch. 4A para. 2(2)(e) repealed (1.10.1998) by 1998 c. 38, s. 152, **Sch. 18 Pt. IV** (with ss. 137(1), 139(2), 141(1), 143(2)); S.I. 1998/2244, **art. 4**
- F318** Para. 2(2)(f) added by **Housing Act 1988 (c. 50, SIF 61)**, s. 140, **Sch. 17 para. 17(2)**
- F319** Words in Sch. 4A para. 2(3)(b) substituted (1.4.2010) by **The Housing and Regeneration Act 2008 (Consequential Provisions) Order 2010 (S.I. 2010/866)**, art. 1(2), **Sch. 2 para. 2(2)(b)** (with art. 6, Sch. 3)
- F320** Sch. 4A para. 2(5) substituted (1.4.2010) by **The Housing and Regeneration Act 2008 (Consequential Provisions) Order 2010 (S.I. 2010/866)**, art. 1(2), **Sch. 2 para. 2(2)(c)** (with art. 6, Sch. 3)

### Marginal Citations

- M81** 1985 c.51 (81:1).
- M82** 1981 c.64 (123:3).
- M83** 1980 c.65 (123:1, 2).

*[<sup>F321</sup> Certain leases granted by housing associations][<sup>F321</sup> Certain housing association and other leases]*

### Textual Amendments

- F321** Sch. 4A para. 3 cross-heading substituted (1.12.2008 for E. for specified purposes, 7.9.2009 for E. in so far as not already in force) by **Housing and Regeneration Act 2008 (c. 17)**, ss. 301(2), 325(1); S.I. 2008/3068, art. 4(5) (with arts. 6-13); S.I. 2009/2096, art. 2(2)(b) (with art. 3(1)(2))

- 3 (1) A lease granted by a housing association and which complies with the conditions set out in sub-paragraph (2) is excluded from the operation of this Part of this Act, whether or not the interest of the landlord still belongs to such an association.
- (2) The conditions are that the lease—
- (a) was granted for a term of 99 years or more and is not (and cannot become) terminable except in pursuance of a provision for re-entry or forfeiture;
  - (b) was granted at a premium, calculated by reference to the value of the house or the cost of providing it, of not less than 25 per cent., or such other percentage as may be prescribed, of the figure by reference to which it was calculated;
  - (c) provides for the tenant to acquire additional shares in the house on terms specified in the lease and complying with such requirements as may be prescribed;

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- <sup>F322</sup>(d) .....
- (e) if it enables the landlord to require payment for outstanding shares in the house, does so only in such circumstances as may be prescribed;
- (f) provides for the tenant to acquire the landlord's interest on terms specified in the lease and complying with such requirements as may be prescribed; and
- (g) states the landlord's opinion that by virtue of this paragraph the lease is excluded from the operation of this Part of this Act.
- (3) In any proceedings the court may, if of the opinion that it is just and equitable to do so, treat a lease as satisfying the conditions in sub-paragraph (2) notwithstanding that the condition specified in paragraph (g) of that sub-paragraph is not satisfied.
- (4) In this paragraph "housing association" has the same meaning as in the Housing Associations Act <sup>M84</sup>1985.

#### Textual Amendments

**F322** Sch. 4A para. 3(2)(d) repealed (26.7.2002 for E. and 1.1.2003 for W.) by 2002 c. 15, ss. 143(3), 180, Sch. 14; S.I. 2002/1912, art. 2(b)(ii), Sch. 1 Pt. 3 (subject to transitional provisions and savings in Sch. 2 of the commencing S.I.); S.I. 2002/3012, art. 2(b)(ii), Sch. 1 Pt. 3 (subject to transitional provisions and savings in Sch. 2 of the commencing S.I.)

#### Marginal Citations

**M84** 1985 c.69 (61).

- <sup>F321</sup> (1) A lease which does not fall within paragraph 3 is excluded from the operation of this Part of this Act if the lease—
- <sup>F323</sup> 3A
- (a) meets the conditions mentioned in sub-paragraph (2);
- (b) meets any other prescribed conditions; and
- (c) does not fall within any prescribed exemptions.
- (2) The conditions referred to in sub-paragraph (1)(a) are that the lease—
- (a) was granted for a term of 99 years or more and is not (and cannot become) terminable except in pursuance of a provision for re-entry or forfeiture;
- (b) was granted at a premium, calculated by reference to the value of the house or the cost of providing it, of not less than 25 per cent, or such other percentage as may be prescribed, of the figure by reference to which it was calculated;
- (c) provides for the tenant to acquire additional shares in the house on terms specified in the lease and complying with such requirements as may be prescribed;
- (d) does not restrict the tenant's powers to mortgage or charge his interest in the house;
- (e) if it enables the landlord to require payment for outstanding shares in the house, does so only in such circumstances as may be prescribed;
- (f) provides for the tenant to acquire the landlord's interest on terms specified in the lease and complying with such requirements as may be prescribed; and
- (g) states the landlord's opinion that by virtue of this paragraph the lease is excluded from the operation of this Part of this Act.
- (3) In any proceedings the court may, if it considers that it is just and equitable to do so, treat a lease as meeting the conditions mentioned in sub-paragraph (2) despite the fact that the condition specified in paragraph (g) of that sub-paragraph is not met.]

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### Textual Amendments

**F323** Sch. 4A para. 3A inserted (1.12.2008 for E. for specified purposes, 7.9.2009 for E. in so far as not already in force) by [Housing and Regeneration Act 2008 \(c. 17\)](#), **ss. 301(1), 325(1)**; S.I. 2008/3068, art. 4(5) (with arts. 6-13); S.I. 2009/2096, art. 2(2)(b) (with art. 3(1)(2))

- 4 (1) A lease for the elderly granted by a [<sup>F324</sup>registered housing association] and which complies with the conditions set out in sub-paragraph (2) is excluded from the operation of this Part of this Act at any time when the interest of the landlord belongs to [<sup>F325</sup>a relevant housing provider] .
- (2) The conditions are that the lease—
- (a) is granted at a premium which is calculated by reference to a percentage of the value of the house or of the cost of providing it,
  - (b) complies, at the time when it is granted, with such requirements as may be prescribed, and
  - (c) states the landlord’s opinion that by virtue of this paragraph the lease will be excluded from the operation of this Part of this Act at any time when the interest of the landlord belongs to [<sup>F326</sup>a relevant housing provider] .
- (3) In this paragraph—
- “lease for the elderly” has such meaning as may be prescribed; and
- [<sup>F327</sup>“relevant housing provider” means—
- (a) in relation to a lease of social housing within the meaning of Part 2 of the Housing and Regeneration Act 2008, a private registered provider of social housing, or
  - (b) a registered social landlord within the meaning of Part 1 of the Housing Act 1996.]

### Textual Amendments

**F324** Words in Sch. 4A para. 4(1) substituted (1.10.1996) by S.I. 1996/2325, art. 5(1), **Sch. 2 para. 1(1)(2)(a)**

**F325** Words in Sch. 4A para. 4(1) substituted (1.4.2010) by [The Housing and Regeneration Act 2008 \(Consequential Provisions\) Order 2010 \(S.I. 2010/866\)](#), art. 1(2), **Sch. 2 para. 2(3)(a)** (with art. 6, Sch. 3)

**F326** Words in Sch. 4A para. 4(2)(c) substituted (1.4.2010) by [The Housing and Regeneration Act 2008 \(Consequential Provisions\) Order 2010 \(S.I. 2010/866\)](#), art. 1(2), **Sch. 2 para. 2(3)(a)** (with art. 6, Sch. 3)

**F327** Words in Sch. 4A para. 4(3) substituted (1.4.2010) by [The Housing and Regeneration Act 2008 \(Consequential Provisions\) Order 2010 \(S.I. 2010/866\)](#), art. 1(2), **Sch. 2 para. 2(3)(b)** (with art. 6, Sch. 3)

### *Certain leases in protected areas*

- [<sup>F328</sup>4A (1) A lease which does not fall within paragraph 3 or 3A is excluded from the operation of this Part of this Act if—
- (a) the lease meets the conditions mentioned in sub-paragraph (2);
  - (b) any provision in the lease for the tenant to acquire the landlord's interest provides for the tenant to acquire the interest on terms specified in the lease and complying with such requirements as may be prescribed;
  - (c) the lease meets any other prescribed conditions;
  - (d) the lease does not fall within any prescribed exemptions; and



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- (e) the house is in a protected area.
- (2) The conditions referred to in sub-paragraph (1)(a) are that the lease—
- (a) was granted for a term of 99 years or more and is not (and cannot become) terminable except in pursuance of a provision for re-entry or forfeiture;
  - (b) was granted at a premium, calculated by reference to the value of the house or the cost of providing it, of not less than 25 per cent, or such other percentage as may be prescribed, of the figure by reference to which it was calculated;
  - (c) provides for the tenant to acquire additional shares in the house on terms specified in the lease and complying with such requirements as may be prescribed;
  - (d) does not restrict the tenant's powers to mortgage or charge his interest in the house;
  - (e) if it enables the landlord to require payment for outstanding shares in the house, does so only in such circumstances as may be prescribed; and
  - (f) states the landlord's opinion that by virtue of this paragraph the lease is excluded from the operation of this Part of this Act.
- (3) The appropriate national authority may by order made by statutory instrument designate an area as a protected area if it considers it appropriate to do so to support the provision in the area of houses, or descriptions of houses, which are available for occupation in accordance with shared ownership arrangements.
- (4) The appropriate national authority must publish the criteria for the time being in force which are to be taken into account by it in deciding whether to designate an area as a protected area.
- (5) Before making an order under sub-paragraph (3) the appropriate national authority must take such steps as it considers to be reasonable to consult those likely to be affected by the order.
- (6) In any proceedings the court may, if it considers that it is just and equitable to do so, treat a lease as meeting the conditions mentioned in sub-paragraph (2) despite the fact that the condition mentioned in paragraph (f) of that sub-paragraph is not met.
- (7) An order under this paragraph may contain such incidental, supplementary, transitory, transitional or saving provisions as the appropriate national authority considers appropriate.
- (8) In this paragraph “shared ownership arrangements” has the same meaning as in section 70 of the Housing and Regeneration Act 2008.
- (9) An instrument containing—
- (a) an order of the Secretary of State under this paragraph is subject to annulment in pursuance of a resolution of either House of Parliament;
  - (b) an order of the Welsh Ministers under this paragraph is subject to annulment in pursuance of a resolution of the National Assembly for Wales.]

#### Textual Amendments

**F328** Sch. 4A para. 4A and cross-heading inserted (1.12.2008 for E. for specified purposes, 7.9.2009 for E. in so far as not already in force) by [Housing and Regeneration Act 2008 \(c. 17\)](#), [ss. 302\(1\), 325\(1\)](#); [S.I. 2008/3068](#), [art. 4\(5\)](#) (with [arts. 6-13](#)); [S.I. 2009/2096](#), [art. 2\(2\)\(b\)](#) (with [art. 3\(1\)\(2\)](#))

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*Power to prescribe matters by regulations*

- 5 (1) The [<sup>F329</sup>Secretary of State][<sup>F329</sup>appropriate national authority] may by regulations prescribe anything requiring to be prescribed for the purposes of this Schedule.
- (2) The regulations may—
- (a) make different provision for different cases or descriptions of case, including different provision for different areas, and
  - (b) contain such incidental, supplementary or transitional provisions as the [<sup>F330</sup>Secretary of State][<sup>F330</sup>appropriate national authority] considers appropriate,
- and shall be made by statutory instrument which [<sup>F331</sup>, in the case of regulations made by the Secretary of State,] shall be subject to annulment in pursuance of a resolution of either House of Parliament [<sup>F332</sup>and, in the case of regulations made by the Welsh Ministers, shall be subject to annulment in pursuance of a resolution of the National Assembly for Wales] .

**Textual Amendments**

- F329** Words in *Sch. 4A para. 5(1)* substituted (1.12.2008 for E. for specified purposes, 7.9.2009 for E. in so far as not already in force) by *Housing and Regeneration Act 2008 (c. 17), ss. 302(2)(a)*, 325(1); S.I. 2008/3068, art. 4(5) (with arts. 6-13); S.I. 2009/2096, art. 2(2)(b) (with art. 3(1)(2))
- F330** Words in *Sch. 4A para. 5(2)(b)* substituted (1.12.2008 for E. for specified purposes, 7.9.2009 for E. in so far as not already in force) by *Housing and Regeneration Act 2008 (c. 17), ss. 302(2)(b)(i)*, 325(1); S.I. 2008/3068, art. 4(5) (with arts. 6-13); S.I. 2009/2096, art. 2(2)(b) (with art. 3(1)(2))
- F331** Words in *Sch. 4A para. 5(2)* inserted (1.12.2008 for E. for specified purposes, 7.9.2009 for E. in so far as not already in force) by *Housing and Regeneration Act 2008 (c. 17), ss. 302(2)(b)(ii)*, 325(1); S.I. 2008/3068, art. 4(5) (with arts. 6-13); S.I. 2009/2096, art. 2(2)(b) (with art. 3(1)(2))
- F332** Words in *Sch. 4A para. 5(2)* inserted (1.12.2008 for E. for specified purposes, 7.9.2009 for E. in so far as not already in force) by *Housing and Regeneration Act 2008 (c. 17), ss. 302(2)(b)(iii)*, 325(1); S.I. 2008/3068, art. 4(5) (with arts. 6-13); S.I. 2009/2096, art. 2(2)(b) (with art. 3(1)(2))

*Interpretation*

- 6 In this Schedule “lease” means a lease at law or in equity, and references to the grant of a lease shall be construed accordingly.]
- [<sup>F3337</sup> In this Schedule “appropriate national authority” means—
- (a) in relation to England, the Secretary of State; and
  - (b) in relation to Wales, the Welsh Ministers.]

**Textual Amendments**

- F333** *Sch. 4A para. 7* inserted (1.12.2008 for E. for specified purposes, 7.9.2009 for E. in so far as not already in force) by *Housing and Regeneration Act 2008 (c. 17), ss. 302(3)*, 325(1); S.I. 2008/3068, art. 4(5) (with arts. 6-13); S.I. 2009/2096, art. 2(2)(b) (with art. 3(1)(2))

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SCHEDULE 5 **E+W**

Section 39.

## LANDLORD AND TENANT ACT 1954 PART I (CONSEQUENTIAL AMENDMENTS, EFFECT OF RENT ACT 1965, ETC.)

*Consequential amendments of Landlord and Tenant Act 1954*

- 1 In Schedule 3 to the <sup>M85</sup>Landlord and Tenant Act 1954, paragraph 1 shall be amended as follows:—
- (a) in sub-paragraph (e) (under which a landlord may claim possession of premises as a residence for himself or certain members of his family) after the word “mother” there shall be inserted the words “or the father or mother of his spouse”; and
  - (b) in proviso (a) (under which a landlord cannot claim possession of premises as a residence for himself or his family unless his interest ante-dated the date there mentioned) for the words “the 21st November 1950” there shall be substituted the words “the 18th February 1966” (in place of the words “the 7th November 1956” substituted by <sup>M86</sup>the Rent Act 1957).

**Modifications etc. (not altering text)**

**C23** The text of Sch. 5 paras. 1, 2, Sch. 6 is in the form in which it was originally enacted: it was not reproduced in Statutes in Force and does not reflect any amendments or repeals which may have been made prior to 1.2.1991.

**Marginal Citations**

**M85** 1954 c. 56.

**M86** 1957 c. 25.

- 2 The following provisions of the Landlord and Tenant Act 1954 shall have effect as if the amendments and repeals made in them by the Rent Act 1957 in consequence of the passing of section 21 of that Act had not been made, that is to say,—
- (a) section 2 (the words “at a low rent” being re-inserted in subsections (1), (2) and (3) after the words “long tenancy” and the words “if the tenancy had not been one at a low rent” being restored in place of the words “if the tenancy had not been a long tenancy and (in the case of a tenancy at a low rent) had not been a tenancy at a low rent”);
  - (b) section 3(3) (the words “if the tenancy in question were not one at a low rent” being restored in place of the words “if the tenancy in question were not a long tenancy and (in the case of a tenancy at a low rent) were not a tenancy at a low rent”);
  - (c) section 12(2)(a) and (b) (the words “if the tenancy were not one at a low rent” being in each case restored in place of the words “if the tenancy were not a long tenancy and (in the case of a tenancy at a low rent) were not a tenancy at a low rent”);
  - (d) section 18(1) (the words “at a low rent” being re-inserted after the words “long tenancy” where first occurring);
  - (e) section 19(1) (the words “at a low rent” being re-inserted after the word “tenancy”, where first occurring, and after the words “another tenancy”, and there being omitted the words “and the second tenancy is a tenancy at a low rent”).

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#### **Modifications etc. (not altering text)**

- C24** The text of Sch. 5 paras. 1, 2, Sch. 6 is in the form in which it was originally enacted: it was not reproduced in Statutes in Force and does not reflect any amendments or repeals which may have been made prior to 1.2.1991.

#### *Regulated tenancies*

- 3 (1) The amount of the rent payable under a regulated tenancy arising by virtue of Part I of the <sup>M87</sup>Landlord and Tenant Act 1954 shall, subject to the provisions of that Act as to initial repairs and subject to the operation (as regards the fixing of a fair rent and otherwise) of [<sup>F334</sup>the <sup>M88</sup>Rent Act 1977], be such amount as may be agreed between the landlord and the tenant or, in default of agreement, the same amount as the rent last payable under the long tenancy; . . . <sup>F335</sup>
- (2) Where the rent payable under a statutory tenancy is arrived at in accordance with subparagraph (1) above, then [<sup>F336</sup>the <sup>M89</sup>Rent Act 1977] shall apply with the following adaptations:—
- (a) . . . . . <sup>F337</sup>
- (b) [<sup>F338</sup>section 45(2)] (under which the rent payable for a statutory period of a tenancy is not to exceed that payable for the last contractual period) shall not apply;
- (c) [<sup>F339</sup>[<sup>F340</sup>sections 46 to 48] (which provide] for variations of rent in respect of changes in the burden on the landlord for rates, provision of services etc.) shall apply only if the rent is one arrived at by agreement, and shall then apply as if references to the last contractual period were references to the first statutory period.

#### **Textual Amendments**

- F334** Words substituted by [Rent Act 1977 \(c. 42\), s. 155\(2\), Sch. 23 para. 46 \(a\)](#)
- F335** Words substitute new s. 6(1) (b) in [Landlord and Tenant Act 1954 \(c. 56\)](#) and amend s. 7
- F336** Words substituted by [Rent Act 1977 \(c. 42\), s. 155\(2\), Sch. 23 para. 46 \(a\)](#)
- F337** [Para. 3\(2\) \(a\)](#) repealed by [Housing Finance Act 1972 \(c. 47\), Sch. 11 Pt. II](#)
- F338** Words substituted by [Rent Act 1977 \(c. 42\), s. 155\(2\), Sch. 23 para. 46 \(b\)](#)
- F339** Words substituted by [Rent Act 1968 \(c. 23\), Sch. 15](#); continued by [Rent Act 1977 \(c. 42\), Sch. 24 para. 30](#)
- F340** Words substituted by [Rent Act 1977 \(c. 42\), s. 155\(2\), Sch. 23 para. 46 \(c\)](#)

#### **Modifications etc. (not altering text)**

- C25** The text of Sch. 5 paras. 1, 2, Sch. 6 is in the form in which it was originally enacted: it was not reproduced in Statutes in Force and does not reflect any amendments or repeals which may have been made prior to 1.2.1991.

#### **Marginal Citations**

- M87** [1954 c. 56.](#)
- M88** [1977 c. 42.](#)
- M89** [1977 c. 42.](#)

- 4 (1) In relation to a rent registered or to be registered for a dwelling-house on an application made with reference to a regulated tenancy arising by virtue of Part I

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of the <sup>M90</sup>Landlord and Tenant Act 1954, [<sup>F341</sup>the Rent Act 1977] shall have effect subject to the provisions of this paragraph.

- (2) An application for the registration of a rent may be made by the landlord or the tenant, or jointly by the landlord and the tenant, before the commencement of the statutory tenancy, but not before the terms of that tenancy other than the amount of the rent have been agreed or determined in accordance with section 7 of the Landlord and Tenant Act 1954; and the provisions of the [<sup>F342</sup>Rent Act 1977] (including the provisions of [<sup>F343</sup>section 72] as to the date from which the registration takes effect) shall apply accordingly.
- (3) Where a rent is registered in pursuance of an application made by virtue of subparagraph (2) above, then a notice under [<sup>F344</sup>section 45(2)(b) of the Rent Act 1977] increasing the rent payable may, if the notice is given within four weeks after the date on which the rent is registered, specify as the date from which the increase is to take effect any date not earlier than the commencement of the tenancy nor earlier than the date from which the registration takes effect.
- (4) Where initial repairs (within the meaning of Part I of the Landlord and Tenant Act 1954) remain to be carried out to the dwelling-house, then in determining what rent is or would be a fair rent regard shall be had under [<sup>F342</sup>section 70(1) of the Rent Act 1977] to the state of repair which may be expected to subsist after the completion of the initial repairs.
- (5) The provisions of [<sup>F341</sup>the Rent Act 1977] as to the amount of the rent recoverable shall be taken as applying to the amount before account is taken of the provisions of the Landlord and Tenant Act 1954 as to initial repairs.
- (6) Any entry in the register of a rent or of its confirmation by the rent assessment committee shall indicate that the rent is registered on an application made with reference to a statutory tenancy arising by virtue of Part I of the Landlord and Tenant Act 1954.

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#### Textual Amendments

**F341** Words substituted by [Rent Act 1977 \(c. 42\), s. 155\(2\), Sch. 23 para. 46 \(a\)](#)

**F342** Words substituted by [Rent Act 1977 \(c. 42\), s. 155\(2\), Sch. 23 para. 46 \(f\)](#)

**F343** Words substituted by [Rent Act 1977 \(c. 42\), s. 155\(2\), Sch. 23 para. 46 \(d\)](#)

**F344** Words substituted by [Rent Act 1977 \(c. 42\), s. 155\(2\), Sch. 23 para. 46 \(e\)](#)

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#### Marginal Citations

**M90** [1954 c. 56.](#)

#### Transitional

- 5 In relation to a tenancy to which section 1 of the <sup>M91</sup>Landlord and Tenant Act 1954 applies immediately before the date of coming into operation of section 39 of this Act (in this and the following paragraphs referred to as “the operative date”), section 39 of this Act and paragraphs 1 to 4 above, together with the repeals made by Part I of Schedule 7 to this Act, shall not have effect if at the operative date there is in force a landlord’s notice proposing a statutory tenancy and all the terms of the tenancy have been agreed or determined in accordance with section 7 of the

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Landlord and Tenant Act 1954 or an application for securing their determination by the court has been made.

#### Marginal Citations

**M91** 1954 c. 56.

- 6 (1) Subject to paragraph 7(1) below, where at the operative date (within the meaning of paragraph 5 above) a tenancy is continuing by virtue of section 3 of the Landlord and Tenant Act 1954, section 39 of this Act and paragraphs 1 to 4 above, together with the repeals made by Part I of Schedule 7 to this Act, shall apply to the tenancy only to the extent provided for by this paragraph.
- (2) Where at the operative date no notice under section 4 of the Landlord and Tenant Act 1954 terminating the tenancy is in force, Part I or, as the case may be, Part II of that Act shall apply as it would apply if the term date of the tenancy (within the meaning of Part I) had fallen on the operative date and if, in the case of a tenancy not at a low rent, it had been one at a low rent.
- (3) Where at the operative date there is in force a landlord's notice proposing a statutory tenancy, sub-paragraph (2) above shall apply as it applies in a case where there is no such notice, unless either—
- (a) all the terms of the tenancy have been agreed or determined in accordance with section 7 of the Landlord and Tenant Act 1954 or an application for securing their determination by the court has been made; or
  - (b) Part II of that Act would in accordance with sub-paragraph (2) above apply to the tenancy.
- (4) Where a landlord's notice terminating the tenancy is in force at the operative date, and the notice ceases to have effect without the tenancy being terminated or a statutory tenancy arising, then sub-paragraph (2) above shall thereafter apply as it applies in a case where there is no such notice.
- (5) Where a statutory tenancy arises by virtue of Part I of the Landlord and Tenant Act 1954 as it applies in accordance with sub-paragraph (2) above [<sup>F345</sup>the Rent Act 1977] shall have effect in relation to the statutory tenancy accordingly.
- (6) Nothing in section 39 of this Act or in sub-paragraphs (2) to (5) above shall affect the operation of any notice given by a tenant under section 5 of the Landlord and Tenant Act 1954 to terminate the tenancy, if the notice is given while section 1 of the Act applies to the tenancy.

#### Textual Amendments

**F345** Words substituted by [Rent Act 1977 \(c. 42\), s. 155\(2\)](#), [Sch. 23 para. 46 \(g\)](#)

- 7 (1) This paragraph shall have effect in relation to tenancies of the following description, except where paragraph 5 above applies, and paragraph 6 shall not have effect in relation to them, that is to say, tenancies—
- (a) to which section 1 of the Landlord and Tenant Act 1954 applies immediately before the operative date (within the meaning of paragraph 5 above); but
  - (b) to which in accordance with section 39 of this Act section 1 of the <sup>M92</sup>Landlord and Tenant Act 1954 can no longer apply because the rateable



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value of the dwelling-house on the appropriate day for purposes of [F346the M93Rent Act 1977] exceeds the amount specified in section 1(1) of that Act.

- (2) Where, on section 1 of the Landlord and Tenant Act 1954 ceasing by virtue of section 39 of this Act to apply to any such tenancy, Part II of that Act would not become applicable to it, then, if the term date falls or fell before the operative date or within the three months beginning with the operative date, the tenancy shall continue until the expiration of those three months unless sooner determined by a notice given by the tenant in accordance with section 5(1) or (2) of the Landlord and Tenant Act 1954 or by a landlord’s notice to resume possession given before the operative date.
- (3) Where, on section 1 of the Landlord and Tenant Act 1954 ceasing by virtue of section 39 of this Act to apply to any such tenancy, Part II of that Act would become applicable to it, section 39 of this Act and paragraphs 1 to 4 above, together with the repeals made by Part I of Schedule 7 to this Act, shall not have effect in relation to the tenancy if at the operative date there is in force a landlord’s notice to resume possession, or there is in force a notice given by the tenant in accordance with section 5(1) or (2) of the Landlord and Tenant Act 1954 to terminate the tenancy on a date within the three months beginning with the operative date:

Provided that this sub-paragraph shall cease to apply if the notice ceases to have effect without the tenancy being terminated.

**Textual Amendments**

F346 Words substituted by Rent Act 1977 (c. 42), s. 155(2), Sch. 23 para. 46 (h)

**Marginal Citations**

M92 1954 c. 56.

M93 1977 c. 42.

8 (1) Where a statutory tenancy has by virtue of Part I of the Landlord and Tenant Act 1954 arisen before the operative date (within the meaning of paragraph 5 above), the operation of Part I of that Act in relation to the tenancy shall not be affected by section 39 of this Act and paragraphs 2 to 4 above, or the repeals made by Part I of Schedule 7 to this Act, except as provided by sub-paragraph (2) below.

(2) ..... F347

(4) ..... F348

**Textual Amendments**

F347 Sch. 5 para. 8(2)(3) repealed by Housing Finance Act 1972 (c. 47), Sch. 11 Pt. II

F348 Sch. 5 para. 8(4) repealed by Housing (Consequential Provisions) Act 1985 (c. 71, SIF 61), ss. 3, 5, Sch. 1 Pt. I, Sch. 4

9 ..... F349

**Textual Amendments**

F349 Sch. 5 para. 9 repealed by Rent Act 1968 (c. 23), Sch. 17



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### *Supplementary*

- [<sup>F350</sup>10(1) Section 74(2) of the Rent Act 1977 (which confers power by regulations to modify certain provisions of Part IV of that Act) shall apply also to this Schedule in so far as it affects section 67 or 72 of, or Schedule 11 to, that Act.
- (2) In so far as they relate to the Rent Act 1977, section 39 of this Act and this Schedule shall have effect subject to section 153 of that Act (which confers power to adapt the Act in its application to the Isles of Scilly) as if those provisions of this Act were contained in that Act.]

#### **Textual Amendments**

**F350** Para. 10 substituted by [Rent Act 1977 \(c. 42\)](#), s. 155(2), [Sch. 23 para. 46 \(i\)](#)

## SCHEDULE 6 E+W

Section 40.

### THE PLACES OF WORSHIP (ENFRANCHISEMENT) ACT 1920, AS AMENDED

#### **Modifications etc. (not altering text)**

**C26** The text of Sch. 5 paras. 1, 2, Sch. 6 is in the form in which it was originally enacted: it was not reproduced in Statutes in Force and does not reflect any amendments or repeals which may have been made prior to 1.2.1991.

#### *Right or persons holding leasehold interest in place of worship or minister's house to acquire freehold.*

- 1 (1) Where premises held under a lease to which this Act applies are held upon trust to be used for the purposes of a place of worship or, connexion with a place of worship, for the purpose of a minister's house, whether in conjunction with other purposes or not, and the premises are being used in accordance with the terms of the trust, the trustees, notwithstanding any agreement to the contrary (not being an agreement against the enlargement of the leasehold interest into a freehold contained in a lease granted or made before the passing of this Act), shall have the right as incident to their leasehold interest to enlarge that interest into a fee simple, and for that purpose to acquire the freehold and all intermediate reversions :

Provided that—

- (a) if the premises exceed two acres in extent, the trustees shall not be entitled to exercise the right in respect of more than two acres thereof ; and
- (aa) where the person entitled to the freehold or an intermediate reversion requires that underlying minerals be excepted, the trustees shall not be entitled to acquire his interest in the minerals if proper provision is made for the support of the premises as they have been enjoyed during the lease and in accordance with the terms of the lease and of the trust ; and
- (b) this Act shall not apply where the premises are used or proposed to be used for the purposes of a place of worship in contravention of any covenant contained in the lease under which the premises are held or in any lease superior thereto ; and

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- (c) this Act shall not apply where the premises form part of land which has been acquired by or is vested in any municipal, local or rating authority or in the owners thereof for the purposes of a railway, dock, canal or navigation under any Act of Parliament, Provisional Order or Order having the force of an Act of Parliament and the freehold reversion in the premises is held or retained by such owners for those purposes.
- (1A) Where the residence house of a benefice is held by the incumbent under a lease to which this Act applies, this Act shall have effect (with any necessary modifications) in relation to the enlargement of the incumbent's leasehold interest into a fee simple, and in relation to the estate so acquired, as it would have effect if the residence house were vested for that interest in trustees ; and the powers and provisions of the <sup>M94</sup>Parsonages Measure 1938 (as amended by any subsequent enactment) relating to the purchase of houses for parsonages shall apply for and in relation to the acquisition under this Act of the freehold reversion.
- (2) The lease to which this Act applies are leases (including underleases and agreements for leases or underleases), whether granted or made before the passing of this Act, for lives or a life or for a term of years where the term as originally created was a term of not less than twenty-one years, whether determinable on a life or lives or not.

#### Marginal Citations

M94 1938 No. 3.

#### *Procedure for acquisition of reversionary interests.*

- 2 For the purpose of acquiring such reversionary interests as aforesaid, Part I of the <sup>M95</sup>Compulsory Purchase Act 1965 shall apply as if the trustees were an authority authorised to acquire the premises by virtue of a compulsory purchase order, made under the <sup>M96</sup>Acquisition of Land (Authorisation Procedure) Act 1946 ; but in relation to any acquisition under this Act the following provisions shall have effect :—
- (a) in Part I of the Compulsory Purchase Act 1965 section 4 (time limit for acquisition) shall not apply, and for the purposes of the said Part I “land” shall include easements in or relating to land ;
  - (b) the consideration payable in respect of any intermediate reversion may, at the option of the person entitled to that reversion, be an annual rentcharge for a term corresponding to the unexpired residue of the term of the reversion ;
  - (c) in determining the amount of any compensation the value of any buildings erected or improvement made by the trustees, shall be excluded ;
  - (d) no allowance shall be made on account of the acquisition being compulsory ;
  - (e) in determining the amount of compensation in any case where the rent reserved under the lease is less than the full annual value of the land the compensation, so far as it is payable in respect of the interest of the lessor expectant on the expiration of the term of the lease, shall not be ascertained on the basis of the rent so reserved, but, subject always to the foregoing provisions of this section, on the estimated full value of the land at the expiration of the term of the lease.

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#### **Marginal Citations**

**M95** 1965 c. 56.

**M96** 1946 c. 49.

#### *Effect of enfranchisement on covenants.*

- 3 The estate in fee simple acquired by the trustees shall be held by them upon the same trusts as those upon which the leasehold interest would have been held by them if it had not been enlarged in to a fee simple, and shall be subject to all the same covenants and provisions relating to user and enjoyment and to all the same obligations of every kind other than the payment of rent as those to which the leasehold interest would have been subject if it had not been so enlarged, and all such covenants, provisions, and obligations shall be enforceable against the trustees and their successors in title by the persons who, but for the enlargement of the leasehold interest under this Act, would for the time being have been entitled to enforce such covenants, provisions, or obligations :

Provided that any covenant to insure against fire, whether in any particular office or not, and to reinstate and apply the insurance money in reinstating the premises in case of damage by fire, and any other covenant to do any act which may or will be beneficial to the demised premises alone, shall continue in force only where the consideration is payable in the form of a rentcharge, and so long as that rentcharge is payable.

#### *Definition.*

- 5 In this Act, unless the context otherwise requires—
- The expression “place of worship” means any church, chapel, or other building used for public religious worship, and includes a burial ground, Sunday or Sabbath school or caretaker’s house attached to or used in connexion with and held upon the same trusts as a place of worship ;
- The expression “freehold reversion” means the estate of fee simple in the premises subject to the lease held by the trustees and any lease superior thereto ;
- The expression “intermediate reversion” means any leasehold interest in the land (whether under a lease or underlease or under an agreement for a lease or underlease) superior to the lease held by the trustees ;
- The expression “trustees” means the persons in whom the leasehold premises are for the time being vested for the purposes of a place of worship or minister’s house under any trust whether express or implied and includes their predecessors in title.

#### *Short title and extent.*

- 6 (1) This Act may be cited as the PLaces of Worship (Enfranchisement) Act 1920.
- (2) This Act shall not extend to Scotland or Northern Ireland.

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## SCHEDULE 7 **E+W**

Sections 40 and 41.

### REPEALS

#### Modifications etc. (not altering text)

- C27** The text of Sch. 7 is in the form in which it was originally enacted: it was not wholly reproduced in Statutes in Force and does not reflect any amendments or repeals which may have been made prior to 1.2.1991.

### PART I **E+W**

#### REPEALS ARISING OUT OF SECTION 39 OF THIS ACT

Chapter	Short title	Extent of repeal
14 & 15 Geo. 6. c. 65.	The Reserve and Auxiliary Forces (Protection of Civil Interests) Act 1951.	In section 16(2), the paragraph (f) added by the Rent Act 1957.
2 & 3 Eliz. 2. c. 56.	The Landlord and Tenant Act 1954.	Section 6(4).  Section 9(5).  In section 43(1)(c) the words (added by the Rent Act 1957) “or subsection (1) of section 21 of the Rent Act 1957”.  In Schedule 1, in paragraph 9 the words (added by the Rent Act 1957) following the word “rent”.  In Schedule 2, in paragraph 1(1) the words (added by the Rent Act 1957) following the word “determination”, where last occurring.  In Schedule 3, paragraph 1(d).  In Schedule 5, in paragraph 7(3), the words from “under the Rent Acts” to “this Act”.
5 & 6 Eliz. 2. c. 25.	The Rent Act 1957.	Section 11(4).  Section 21(2).  In section 25, in subsection (1) the definitions of “long tenancy” and

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“tenancy at a low rent”,  
and in subsection (3)  
paragraph (b) and in  
paragraph (c) the words from  
“or” onwards.

In Schedule 6, paragraphs 7  
to 10, 15, 25(3) and 27.

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The repeals in this Part of this Schedule are made subject to the provisions of Schedule 5 to this Act.

## PART II E+W

### *REPEALS ARISING OUT OF SECTION 40 OF THIS ACT*

<b>Chapter</b>	<b>Short title</b>	<b>Extent of repeal</b>
10 & 11 Geo. 5. c. 56.	The Places of Worship (Enfranchisement) Act 1920.	Section 4.  In section 5, in the definition of “freehold reversion” the words from “and, where” onwards, and the definition of “the county court”.  The Schedule.

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The repeals in Part of this Schedule are made subject to the provisions of section 40(8) of this Act.

**Status:**

Point in time view as at 12/04/2015.

**Changes to legislation:**

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