



Leasehold Reform Act 1967

1967 CHAPTER 88

PART I

ENFRANCHISEMENT AND EXTENSION OF LONG LEASEHOLDS

Supplementary

23 Agreements excluding or modifying rights of tenant.

- (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 five years 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

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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, 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 section 29 of the Charities Act 1960 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) 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.

24 Application of price or compensation received by landlord, and charge of betterment levy on enfranchisement.

- (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 held on trust for sale 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 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.
- (2) For purposes of Part III of the Land Commission Act 1967 any conveyance executed to give effect to section 8 above shall be deemed to be a conveyance on sale of any interest transferred (or, as regards a tenancy, an assignment on sale of it), and the price payable for the interest under section 9 shall be deemed to be consideration payable in respect of the disposition of that interest.

25 Mortgagee in possession of landlord's interest.

- (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.
- (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,—

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- (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.

- (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.
- (2) Where a landlord is incapable by reason of mental disorder within the meaning of the Mental Health Act 1959 of managing and administering his property and affairs, his receiver appointed under Part VIII of that Act or (if no such receiver is acting for him) any person authorised in that behalf shall, under an order of the authority having jurisdiction under Part VIII of that Act, take his place as landlord for purposes of this Part of this Act.

27 Enfranchisement where landlord cannot be found.

- (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 the High Court may, subject to and in accordance with the provisions of this section, make such order as 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 the High Court given notice of his desire to have the freehold.
- (2) Before making any such order the High Court may require the applicant to take such further steps by way of advertisement or otherwise as the Court thinks proper for the purpose of tracing the landlord; and if after an application is made to the High 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) the High Court may give such directions as 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 the Supreme Court the appropriate sum there shall be executed by such person as the High Court may designate a conveyance

in a form approved by the High 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 High 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.
- (5) The appropriate sum to be paid into the Supreme Court in accordance with subsection (3) above shall be such amount as a surveyor selected by the President of the Lands Tribunal may certify to be at a fair valuation the price payable in accordance with section 9 above, together with the amount or estimated amount remaining unpaid (as determined by the High Court) of any pecuniary rent payable for the house and premises up to the date of the conveyance.
- (6) Where a house and premises are vested in a person in accordance with this section, the payment into the Supreme 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 the High Court, and the High Court shall not give leave unless it appears to 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.