Leasehold Reform, Housing and Urban Development Act 1993

1993 CHAPTER 28

PART I

LANDLORD AND TENANT

CHAPTER I

COLLECTIVE ENFRANCHISEMENT IN CASE OF TENANTS OF FLATS

Preliminary

1 The right to collective enfranchisement.

(1) This Chapter has effect for the purpose of conferring on qualifying tenants of flats contained in premises to which this Chapter applies on the relevant date the right, exercisable subject to and in accordance with this Chapter, to have the freehold of those premises acquired on their behalf—

(a) by a person or persons appointed by them for the purpose, and

(b) at a price determined in accordance with this Chapter;

and that right is referred to in this Chapter as "the right to collective enfranchisement".

(2) Where the right to collective enfranchisement is exercised in relation to any such premises ("the relevant premises")—

(a) the qualifying tenants by whom the right is exercised shall be entitled, subject to and in accordance with this Chapter, to have acquired, in like manner, the freehold of any property which is not comprised in the relevant premises but to which this paragraph applies by virtue of subsection (3); and

(b) section 2 has effect with respect to the acquisition of leasehold interests to which paragraph (a) or (b) of subsection (1) of that section applies.

(3) Subsection (2)(a) applies to any property if [F1]. . . at the relevant date either—

(a) it is appurtenant property which is demised by the lease held by a qualifying tenant of a flat contained in the relevant premises; or

(b) it is property which any such tenant is entitled under the terms of the lease of his flat to use in common with the occupiers of other premises (whether those premises are contained in the relevant premises or not).

(4) The right of acquisition in respect of the freehold of any such property as is mentioned in subsection (3)(b) shall, however, be taken to be satisfied with respect to that property if, on the acquisition of the relevant premises in pursuance of this Chapter, either—

(a) there are granted by the **[**[F2]person who owns the freehold of that property**]**—

(i) over that property, or

(ii) over any other property,

such permanent rights as will ensure that thereafter the occupier of the flat referred to in that provision has as nearly as may be the same rights as those enjoyed in relation to that property on the relevant date by the qualifying tenant under the terms of his lease; or

(b) there is acquired from the **[**[F2]person who owns the freehold of that property**]** the freehold of any other property over which any such permanent rights may be granted.

(5) A claim by qualifying tenants to exercise the right to collective enfranchisement may be made in relation to any premises to which this Chapter applies despite the fact that those premises are less extensive than the entirety of the premises in relation to which those tenants are entitled to exercise that right.

(6) Any right or obligation under this Chapter to acquire any interest in property shall not extend to underlying minerals in which that interest subsists if—

(a) the owner of the interest requires the minerals to be excepted, and

(b) proper provision is made for the support of the property as it is enjoyed on the relevant date.

(7) In this section—

"appurtenant property", in relation to a flat, means any garage, outhouse, garden, yard or appurtenances belonging to, or usually enjoyed with, the flat;

[F1]. . .

"the relevant premises" means any such premises as are referred to in subsection (2).

(8) In this Chapter "the relevant date", in relation to any claim to exercise the right to collective enfranchisement, means the date on which notice of the claim is given under section 13.

Textual Amendments

F1 Words in s. 1(3)(7) repealed (1.10.1996) by 1996 c. 52, ss. 107(3), 227, **Sch. 19 Pt.V**; S.I. 1996/2212, **art. 2(2)** (with saving in Sch.)

F2 Words in s. 1(4) substituted (1.10.1996) by 1996 c. 52, s. 107, **Sch. 10 para.2**; S.I. 1996/2212, **art. 2(2)** (with saving in Sch.)

2 Acquisition of leasehold interests.

(1) Where the right to collective enfranchisement is exercised in relation to any premises to which this Chapter applies ("the relevant premises"), then, subject to and in accordance with this Chapter—

(a) there shall be acquired on behalf of the qualifying tenants by whom the right is exercised every interest to which this paragraph applies by virtue of subsection (2); and

(b) those tenants shall be entitled to have acquired on their behalf any interest to which this paragraph applies by virtue of subsection (3);

and any interest so acquired on behalf of those tenants shall be acquired in the manner mentioned in paragraphs (a) and (b) of section 1(1).

(2) Paragraph (a) of subsection (1) above applies to the interest of the tenant under any lease which is superior to the lease held by a qualifying tenant of a flat contained in the relevant premises.

(3) Paragraph (b) of subsection (1) above applies to the interest of the tenant under any lease (not falling within subsection (2) above) under which the demised premises consist of or include—

(a) any common parts of the relevant premises, or

(b) any property falling within section 1(2)(a) which is to be acquired by virtue of that provision,

where the acquisition of that interest is reasonably necessary for the proper management or maintenance of those common parts, or (as the case may be) that property, on behalf of the tenants by whom the right to collective enfranchisement is exercised.

(4) Where the demised premises under any lease falling within subsection (2) or (3) include any premises other than—

(a) a flat contained in the relevant premises which is held by a qualifying tenant,

(b) any common parts of those premises, or

(c) any such property as is mentioned in subsection (3)(b),

the obligation or (as the case may be) right under subsection (1) above to acquire the interest of the tenant under the lease shall not extend to his interest under the lease in any such other premises.

(5) Where the qualifying tenant of a flat is a public sector landlord and the flat is let under a secure tenancy **[**[F3]or an introductory tenancy**]**, then if—

(a) the condition specified in subsection (6) is satisfied, and

(b) the lease of the qualifying tenant is directly derived out of a lease under which the tenant is a public sector landlord,

the interest of that public sector landlord as tenant under that lease shall not be liable to be acquired by virtue of subsection (1) to the extent that it is an interest in the flat or in any appurtenant property; and the interest of a public sector landlord as tenant under any lease out of which the qualifying tenant's lease is indirectly derived shall, to the like extent, not be liable to be so acquired (so long as the tenant under every lease intermediate between that lease and the qualifying tenant's lease is a public sector landlord).

(6) The condition referred to in subsection (5)(a) is that either—

(a) the qualifying tenant is the immediate landlord under the secure tenancy **[**F4or, as the case may be, the introductory tenancy**]**, or

(b) he is the landlord under a lease which is superior to the secure tenancy **[**F5or, as the case may be, the introductory tenancy**]** and the tenant under that lease, and the tenant under every lease (if any) intermediate between it and the secure tenancy **[**F5or the introductory tenancy**]**, is also a public sector landlord;

and in subsection (5) "appurtenant property" has the same meaning as in section 1.

(7) In this section "the relevant premises" means any such premises as are referred to in subsection (1).

Textual Amendments

F3 Words in s. 2(5) inserted (12.2.1997) by S.I. 1997/74, art. 2, **Sch. para. 9(a)(i)**

F4 Words in s. 2(6)(a) inserted (12.2.1997) by S.I. 1997/74, art. 2, **Sch. para. 9(a)(ii)**

F5 Words in s. 2(6)(b) inserted (12.2.1997) by S.I. 1997/74, art. 2, **Sch. para. 9(a)(iii)**

3 Premises to which this Chapter applies.

(1) Subject to section 4, this Chapter applies to any premises if—

(a) they consist of a self-contained building or part of a building F6. . .;

(b) they contain two or more flats held by qualifying tenants; and

(c) the total number of flats held by such tenants is not less than two-thirds of the total number of flats contained in the premises.

(2) For the purposes of this section a building is a self-contained building if it is structurally detached, and a part of a building is a self-contained part of a building if—

(a) it constitutes a vertical division of the building and the structure of the building is such that that part could be redeveloped independently of the remainder of the building; and

(b) the relevant services provided for occupiers of that part either—

(i) are provided independently of the relevant services provided for occupiers of the remainder of the building, or

(ii) could be so provided without involving the carrying out of any works likely to result in a significant interruption in the provision of any such services for occupiers of the remainder of the building;

and for this purpose "relevant services" means services provided by means of pipes, cables or other fixed installations.

Textual Amendments

F6 Words in s. 3(1)(a) repealed (1.10.1996) by 1996 c. 52, ss. 107(1), 227, **Sch. 19 Pt.V**; S.I. 1996/2212, **art. 2(2)** (with savings in Sch.)

4 Premises excluded from right.

(1) This Chapter does not apply to premises falling within section 3(1) if—

(a) any part or parts of the premises is or are neither—

(i) occupied, or intended to be occupied, for residential purposes, nor

(ii) comprised in any common parts of the premises; and

(b) the internal floor area of that part or of those parts (taken together) exceeds 10 per cent. of the internal floor area of the premises (taken as a whole).

(2) Where in the case of any such premises any part of the premises (such as, for example, a garage, parking space or storage area) is used, or intended for use, in conjunction with a particular dwelling contained in the premises (and accordingly is not comprised in any common parts of the premises), it shall be taken to be occupied, or intended to be occupied, for residential purposes.

(3) For the purpose of determining the internal floor area of a building or of any part of a building, the floor or floors of the building or part shall be taken to extend (without interruption) throughout the whole of the interior of the building or part, except that the area of any common parts of the building or part shall be disregarded.

[F7(3A) Where different persons own the freehold of different parts of premises within subsection (1) of section 3, this Chapter does not apply to the premises if any of those parts is a self-contained part of a building for the purposes of that section.**]**

(4) This Chapter does not apply to premises falling within section 3(1) if the premises are premises with a resident landlord and do not contain more than four units.

Textual Amendments

F7 S. 4(3A) inserted (1.10.1996) by 1996 c. 52, **s. 107(2)**; S.I. 1996/2212, **art. 2(2)** (with savings in Sch.)

VALID FROM 26/07/2002

[F8 4A RTE companies

(1) A company is a RTE company in relation to premises if—

(a) it is a private company limited by guarantee, and

(b) its memorandum of association states that its object, or one of its objects, is the exercise of the right to collective enfranchisement with respect to the premises.

(2) But a company is not a RTE company if it is a commonhold association (within the meaning of Part 1 of the Commonhold and Leasehold Reform Act 2002).

(3) And a company is not a RTE company in relation to premises if another company which is a RTE company in relation to—

(a) the premises, or

(b) any premises containing or contained in the premises,

has given a notice under section 13 with respect to the premises, or any premises containing or contained in the premises, and the notice continues in force in accordance with subsection (11) of that section.

Textual Amendments

F8 Ss. 4A-4C inserted (26.7.2002 for E. for specified purposes, 1.1.2003 for W. for specified purposes and otherwise prosp.) by Commonhold and Leasehold Reform Act 2002 (c. 15), **s. 122**; S.I. 2002/1912, **art. 2(c)** (subject to Sch. 2); S. I. 2002/3012, **art. 2(c)** (subject to Sch. 2)

VALID FROM 26/07/2002

4B RTE companies: membership

(1) Before the execution of a relevant conveyance to a company which is a RTE company in relation to any premises the following persons are entitled to be members of the company—

(a) qualifying tenants of flats contained in the premises, and

(b) if the company is also a RTM company which has acquired the right to manage the premises, landlords under leases of the whole or any part of the premises.

(2) In this section—

"relevant conveyance" means a conveyance of the freehold of the premises or of any premises containing or contained in the premises; and

"RTM company" has the same meaning as in Chapter 1 of Part 2 of the Commonhold and Leasehold Reform Act 2002.

(3) On the execution of a relevant conveyance to the RTE company, any member of the company who is not a participating member ceases to be a member.

(4) In this Chapter "participating member", in relation to a RTE company, means a person who is a member by virtue of subsection (1)(a) of this section and who—

(a) has given a participation notice to the company before the date when the company gives a notice under section 13 or during the participation period, or

(b) is a participating member by virtue of either of the following two subsections.

(5) A member who is the assignee of a lease by virtue of which a participating member was a qualifying tenant of his flat is a participating member if he has given a participation notice to the company within the period beginning with the date of the assignment and ending 28 days later (or, if earlier, on the execution of a relevant conveyance to the company).

(6) And if the personal representatives of a participating member are a member, they are a participating member if they have given a participation notice to the company at any time (before the execution of a relevant conveyance to the company).

(7) In this section "participation notice", in relation to a member of the company, means a notice stating that he wishes to be a participating member.

(8) For the purposes of this section a participation notice given to the company during the period—

(a) beginning with the date when the company gives a notice under section 13, and

(b) ending immediately before a binding contract is entered into in pursuance of the notice under section 13,

is of no effect unless a copy of the participation notice has been given during that period to the person who (in accordance with section 9) is the reversioner in respect of the premises.

(9) For the purposes of this section "the participation period" is the period beginning with the date when the company gives a notice under section 13 and ending—

(a) six months, or such other time as the Secretary of State may by order specify, after that date, or

(b) immediately before a binding contract is entered into in pursuance of the notice under section 13,

whichever is the earlier.

(10) In this section references to assignment include an assent by personal representatives, and assignment by operation of law where the assignment is to a trustee in bankruptcy or to a mortgagee under section 89(2) of the Law of Property Act 1925 (c. 20) (foreclosure of leasehold mortgage); and references to an assignee shall be construed accordingly.

Textual Amendments

F8 Ss. 4A-4C inserted (26.7.2002 for E. for specified purposes, 1.1.2003 for W. for specified purposes and otherwise prosp.) by Commonhold and Leasehold Reform Act 2002 (c. 15), **s. 122**; S.I. 2002/1912, **art. 2(c)** (subject to Sch. 2); S. I. 2002/3012, **art. 2(c)** (subject to Sch. 2)

VALID FROM 26/07/2002

4C RTE companies: regulations

(1) The Secretary of State shall by regulations make provision about the content and form of the memorandum of association and articles of association of RTE companies.

(2) A RTE company may adopt provisions of the regulations for its memorandum or articles.

(3) The regulations may include provision which is to have effect for a RTE company whether or not it is adopted by the company.

(4) A provision of the memorandum or articles of a RTE company has no effect to the extent that it is inconsistent with the regulations.

(5) The regulations have effect in relation to a memorandum or articles—

(a) irrespective of the date of the memorandum or articles, but

(b) subject to any transitional provisions of the regulations.

(6) The following provisions of the Companies Act 1985 (c. 6) do not apply to a RTE company—

(a) sections 2(7) and 3 (memorandum), and

(b) section 8 (articles).**]**

Textual Amendments

F8 Ss. 4A-4C inserted (26.7.2002 for E. for specified purposes, 1.1.2003 for W. for specified purposes and otherwise prosp.) by Commonhold and Leasehold Reform Act 2002 (c. 15), **s. 122**; S.I. 2002/1912, **art. 2(c)** (subject to Sch. 2); S. I. 2002/3012, **art. 2(c)** (subject to Sch. 2)

5 Qualifying tenants.

(1) Subject to the following provisions of this section, a person is a qualifying tenant of a flat for the purposes of this Chapter if he is tenant of the flat under a long lease **[**F9which is at a low rent or for a particularly long term**]**.

(2) Subsection (1) does not apply where—

(a) the lease is a business lease; or

(b) the immediate landlord under the lease is a charitable housing trust and the flat forms part of the housing accommodation provided by it in the pursuit of its charitable purposes; or

(c) the lease was granted by sub-demise out of a superior lease other than a long lease at a low rent **[**F10or for a particularly long term**]**, the grant was made in breach of the terms of the superior lease, and there has been no waiver of the breach by the superior landlord;

and in paragraph (b) "charitable housing trust" means a housing trust within the meaning of the M1Housing Act 1985 which is a charity within the meaning of the M2Charities Act 1993.

(3) No flat shall have more than one qualifying tenant at any one time.

(4) Accordingly—

(a) where a flat is for the time being let under two or more leases to which subsection (1) applies, any tenant under any of those leases which is superior to that held by any other such tenant shall not be a qualifying tenant of the flat for the purposes of this Chapter; and

(b) where a flat is for the time being let to joint tenants under a lease to which subsection (1) applies, the joint tenants shall (subject to paragraph (a) and subsection (5)) be regarded for the purposes of this Chapter as jointly constituting the qualifying tenant of the flat.

(5) Where apart from this subsection—

(a) a person would be regarded for the purposes of this Chapter as being (or as being among those constituting) the qualifying tenant of a flat contained in any particular premises consisting of the whole or part of a building, but

(b) that person would also be regarded for those purposes as being (or as being among those constituting) the qualifying tenant of each of two or more other flats contained in those premises,

then, whether that person is tenant of the flats referred to in paragraphs (a) and (b) under a single lease or otherwise, there shall be taken for those purposes to be no qualifying tenant of any of those flats.

(6) For the purposes of subsection (5) in its application to a body corporate any flat let to an associated company (whether alone or jointly with any other person or persons) shall be treated as if it were so let to that body; and for this purpose "associated company"

means another body corporate which is (within the meaning of section 736 of the [M3]Companies Act 1985) that body's holding company, a subsidiary of that body or another subsidiary of that body's holding company.

Textual Amendments

F9 Words in s. 5(1) substituted (1.4.1997) by 1996 c. 52, s. 106, **Sch. 9 para. 3(2)(a)**; S.I. 1997/618 art. 2(1) (with savings in Sch.)

F10 Words in s. 5(2)(c) inserted (1.4.1997) by 1996 c. 52, s. 106, **Sch. 9 para. 3(2)(b)**; S.I. 1997/618, **art. 2(1)** (with savings in Sch.)

Marginal Citations

M1 1985 c. 68.

M2 1993 c. 10.

M3 1985 c. 6.

6 Qualifying tenants satisfying residence condition.

(1) For the purposes of this Chapter a qualifying tenant of a flat satisfies the residence condition at any time when the condition specified in subsection (2) is satisfied with respect to him.

(2) That condition is that the tenant has occupied the flat as his only or principal home—

(a) for the last twelve months, or

(b) for periods amounting to three years in the last ten years,

whether or not he has used it also for other purposes.

(3) For the purposes of subsection (2)—

(a) any reference to the tenant's flat includes a reference to part of it; and

(b) it is immaterial whether at any particular time the tenant's occupation was in right of the lease by virtue of which he is a qualifying tenant or in right of some other lease or otherwise;

but any occupation by a company or other artificial person, or (where the tenant is a corporation sole) by the corporator, shall not be regarded as occupation for the purposes of that subsection.

[F11(4) Subsection (1) shall not apply where a lease is vested in trustees (other than a sole tenant for life within the meaning of the [M4]Settled Land Act 1925), and, in that case, a qualifying tenant of a flat shall, for the purposes of this Chapter, be treated as satisfying the residence condition at any time when the condition in subsection (5) is satisfied with respect to an individual having an interest under the trust (whether or not also a trustee).

(5) That condition is that the individual has occupied the flat as his only or principal home—

(a) for the last twelve months, or

(b) for periods amounting to three years in the last ten years,

whether or not he has used the flat also for other purposes.

(6) For the purposes of subsection (5)—

(a) any reference to the flat includes a reference to part of it; and

(b) it is immaterial whether at any particular time the individual's occupation was in right of the lease by virtue of which the trustees are a qualifying tenant or in right of some other lease or otherwise.**]**

Textual Amendments

F11 S. 6(4)(5)(6) substituted (1.10.1996) for s. 6(4) by 1996 c. 52, **s. 111(1)**; S.I. 1996/2212. art. 2(2) (with savings in Sch.)

Marginal Citations

M4 1925 c. 18.

7 Meaning of "long lease".

(1) In this Chapter "long lease" means (subject to the following provisions of this section) —

(a) a lease granted for a term of years certain exceeding 21 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) a lease for a term fixed by law under a grant with a covenant or obligation for perpetual renewal (other than a lease by sub-demise from one which is not a long lease) or a lease taking effect under section 149(6) of the [M5]Law of Property Act 1925 (leases terminable after a death or marriage);

(c) a lease granted in pursuance of the right to buy conferred by Part V of the [M6]Housing Act 1985 or in pursuance of the right to acquire on rent to mortgage terms conferred by that Part of that Act; or

(d) a shared ownership lease, whether granted in pursuance of that Part of that Act or otherwise, where the tenant's total share is 100 per cent. **[**[F12]or

(e) a lease granted in pursuance of that Part of that Act as it has effect by virtue of section 17 of the Housing Act 1996 (the right to acquire)**]**

(2) A lease terminable by notice after a death or marriage is not to be treated as a long lease for the purposes of this Chapter if—

(a) the notice is capable of being given at any time after the death or marriage of the tenant;

(b) the length of the notice is not more than three months; and

(c) the terms of the lease 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.

(3) Where the tenant of any property under a long lease at a low rent, on the coming to an end of that lease, becomes or has become tenant of the property or part of it under any subsequent tenancy (whether by express grant or by implication of law), then that tenancy shall be deemed for the purposes of this Chapter (including any further application of this subsection) to be a long lease irrespective of its terms.

(4) Where—

(a) a lease is or has been granted for a term of years certain not exceeding 21 years, but with a covenant or obligation for renewal without payment of a premium (but not for perpetual renewal), and

(b) the lease is or has been renewed on one or more occasions so as to bring to more than 21 years the total of the terms granted (including any interval between the end of a lease and the grant of a renewal),

this Chapter shall apply as if the term originally granted had been one exceeding 21 years.

(5) References in this Chapter to a long lease include—

(a) any period during which the lease is or was continued under Part I of the [M7]Landlord and Tenant Act 1954 or under Schedule 10 to the [M8]Local Government and Housing Act 1989;

(b) any period during which the lease was continued under the [M9]Leasehold Property (Temporary Provisions) Act 1951.

(6) Where in the case of a flat there are at any time two or more separate leases, with the same landlord and the same tenant, and—

(a) the property comprised in one of those leases consists of either the flat or a part of it (in either case with or without any appurtenant property), and

(b) the property comprised in every other lease consists of either a part of the flat (with or without any appurtenant property) or appurtenant property only,

then in relation to the property comprised in such of those leases as are long leases, this Chapter shall apply as it would if at that time—

(i) there were a single lease of that property, and

(ii) that lease were a long lease;

but this subsection has effect subject to the operation of subsections (3) to (5) in relation to any of the separate leases.

(7) In this section—

"appurtenant property" has the same meaning as in section 1;

"shared ownership lease" means a lease—

(a) granted on payment of a premium calculated by reference to a percentage of the value of the demised premises or the cost of providing them, or

(b) under which the tenant (or his personal representatives) will or may be entitled to a sum calculated by reference, directly or indirectly, to the value of those premises; and

"total share", in relation to the interest of a tenant under a shared ownership lease, means his initial share plus any additional share or shares in the demised premises which he has acquired.

Textual Amendments

F12 S. 7(1)(e) and the word immediately preceeding it inserted (1.4.1997) by S.I. 1997/627 art. 2, Sch. para.7

Marginal Citations

M5 1925 c. 20.
M6 1985 c. 68.
M7 1954 c. 56.
M8 1989 c. 42.
M9 1951 c. 38.

8 Leases at a low rent.

(1) For the purposes of this Chapter a lease of a flat is a lease at a low rent if either no rent was payable under it in respect of the flat 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 lease was entered into before 1st April 1963, two-thirds of the letting value of the flat (on the same terms) on the date of the commencement of the lease;

(b) where—

(i) the lease 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

[F13(ii) the flat had a rateable value other than nil at the date of the commencement of the lease or else at any time before 1st April 1990,**]**

two-thirds of the rateable value of the flat on the appropriate date; or

(c) in any other case, £1,000 if the flat is in Greater London or £250 if elsewhere.

(2) For the purposes of subsection (1)—

(a) "the initial year", in relation to any lease, means the period of one year beginning with the date of the commencement of the lease;

[F14(b) "the appropriate date" means the date of commencement of the lease or, if the flat in question did not have a rateable value, or had a rateable value of nil, on that date, the date on which the flat first had a rateable value other than nil;**]**

(c) section 25(1), (2) and (4) of the M10Rent Act 1977 (rateable value etc.) shall apply, with any necessary modifications, for the purpose of determining the amount of the rateable value of a flat on a particular date;

(d) "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 repairs, maintenance or insurance to be effected by the landlord, or to be payable in respect of the cost thereof to the landlord under the lease or a superior landlord; and

(e) there shall be disregarded any term of the lease 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 lease or an agreement collateral thereto.

(3) In subsection (1)(a) above the reference to letting value shall be construed in like manner as, under the law of England and Wales, the reference to letting value is to be construed where it appears in the proviso to section 4(1) of the M11Leasehold Reform Act 1967 (meaning of "low rent").

(4) Accordingly, in determining the letting value of a flat at any time for the purposes of subsection (1)(a) above, regard shall be had to whether, and (if so) in what amount, a premium might then have been lawfully demanded as the whole or part of the consideration for the letting.

(5) Where, by virtue of section 7(4), a lease which has been renewed on one or more occasions is to be treated as a long lease for the purposes of this Chapter, then for the purpose of determining under this section whether it is for those purposes a long lease at a low rent—

(a) the lease shall be deemed to have been entered into on the date of the last renewal of the lease; and

(b) that date shall be deemed to be the date of the commencement of the lease.

(6) Subsection (2)(a) above shall have effect in relation to any shared ownership lease falling within section 7(1)(d) as if the reference to the date of commencement of the lease were a reference to the date on which the tenant's total share became 100 per cent; and section 7(7) shall apply for the interpretation of this subsection.

(7) In this section any reference to a flat let under a lease includes a reference to any appurtenant property (within the meaning of section 1) which on the relevant date is let with the flat to the tenant under the lease.

Textual Amendments

F13 S. 8(1)(b)(ii) substituted (1.10.1996) by 1996 c. 52, **s. 105(3)(a)**; S.I. 1996/2212, **art. 2(2)** (with savings in Sch.)

F14 S. 8(2)(b) substituted (1.10.1996) by 1996 c. 52, **s. 105(3)(b)**; S.I. 1996/2212, **art. 2(2)** (with savings in Sch.)

Marginal Citations

M10 1977 c. 42.

M11 1967 c. 88.

[F15 8A Meaning of "particularly long term".

(1) For the purposes of this Chapter a long lease is for a particularly long term if—

(a) it is granted for a term of years certain exceeding 35 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 (other than a lease by sub-demise from one which is not for a particularly long term),

(c) it takes effect under section 149(6) of the M12 Law of Property Act 1925 (leases terminable after a death or marriage), or

(d) it is a lease which—

(i) is or has been granted for a term of years certain not exceeding 35 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 renewed on one or more occasions so as to bring to more than 35 years the total of the terms granted (including any interval between the end of a lease and the grant of a renewal).

(2) A long lease which does not fall within subsection (1) above shall nonetheless be treated for the purposes of this Chapter as being for a particularly long term if it is a long lease by virtue of paragraph (c) or (d) of section 7(1).

(3) Where this Chapter applies as if there were a single lease of property comprised in two or more separate leases, then, if each of the separate leases is for a particularly long term, this Chapter shall apply as if the single lease were for such a term.]

Textual Amendments

F15 S. 8A inserted (1.4.1997) by 1996 c. 52, s. 106, **Sch. 9 para. 3(3)**; S.I. 1997/618, **art. 2(1)** (with savings in Sch.)

Marginal Citations

M12 1925 c. 20.

9 The reversioner and other relevant landlords for the purposes of this Chapter.

(1) Where, in connection with any claim to exercise the right to collective enfranchisement in relation to any premises **[**F16the freehold of the whole of which is owned by the same person**]**, it is not proposed to acquire any interests other than—

(a) the freehold of the premises, or

(b) any other interests of the person who owns the freehold of the premises,

that person shall be the reversioner in respect of the premises for the purposes of this Chapter.

(2) Where, in connection with any such claim **[**F17as is mentioned in subsection (1)**]**, it is proposed to acquire interests of persons other than the person who owns the freehold of the premises to which the claim relates, then—

(a) the reversioner in respect of the premises shall for the purposes of this Chapter be the person identified as such by Part I of Schedule 1 to this Act; and

(b) the person who owns the freehold of the premises **[**F18every person who owns any freehold interest which it is proposed to acquire by virtue of section 1(2)(a),**]**, and every person who owns any leasehold interest which it is proposed to acquire under or by virtue of section 2(1)(a) or (b), shall be a relevant landlord for those purposes.

[F19(2A) In the case of any claim to exercise the right to collective enfranchisement in relation to any premises the freehold of the whole of which is not owned by the same person—

(a) the reversioner in respect of the premises shall for the purposes of this Chapter be the person identified as such by Part IA of Schedule 1 to this Act, and

(b) every person who owns a freehold interest in the premises, every person who owns any freehold interest which it is proposed to acquire by virtue of section 1(2)(a), and every person who owns any leasehold interest which it is proposed to acquire under or by virtue of section 2(1)(a) or (b), shall be a relevant landlord for those purposes.**]**

(3) Subject to the provisions of Part II of Schedule 1, the reversioner in respect of any premises shall, in a case to which subsection (2) **[**F20or (2A)**]** applies, conduct on behalf of all the relevant landlords all proceedings arising out of any notice given with respect to the premises under section 13 (whether the proceedings are for resisting or giving effect to the claim in question).

(4) Schedule 2 (which makes provision with respect to certain special categories of landlords) has effect for the purposes of this Chapter.

Textual Amendments

F16 Words in s. 9(1) inserted (1.10.1996) by 1996 c. 52, s. 107, **Sch. 10 para. 3(2)**; S.I. 1996/2212, **art. 2(2)** (with savings in Sch.)

F17 Words in s. 9(2) inserted (1.10.1996) by 1996 c. 52, s. 107, **Sch. 10 para. 3(3)(a)**; S.I. 1996/2212, **art. 2(2)** (with savings in Sch.)

F18 Words in s. 9(2)(b) inserted (1.10.1996) by 1996 c. 52, s. 107, **Sch. 10 para. 3(3)(b)**; S.I. 1996/2212, **art. 2(2)** (with savings in Sch.)

F19 S. 9(2A) inserted (1.10.1996) by 1996 c. 52, s. 107, **Sch. 10 para. 3(4)**; S.I. 1996/2212, **art. 2(2)** (with saving in Sch.)

F20 Words in s. 9(3) inserted (1.10.1996) by 1996 c. 52, s. 107, **Sch. 10 para. 3(5)**; S.I. 1996/2212, **art. 2(2)** (with savings in Sch.)

10 Premises with a resident landlord.

(1) For the purposes of this Chapter any premises falling within section 3(1) are at any time premises with a resident landlord if—

(a) the premises are not, and do not form part of, a purpose-built block of flats; and

(b) **[**F21a relevant person, or an adult member of a relevant person's**]** family—

(i) at that time occupies a flat contained in the premises **[**F22which is a qualifying flat**]** as his only or principal home, and

(ii) has so occupied such a flat throughout a period of not less than twelve months ending with that time.

(2) Where any premises falling within section 3(1) would at any time ("the relevant time") be premises with a resident landlord but for the fact that subsection (1)(b)(ii) above does not apply, the premises shall nevertheless be treated for the purposes of this Chapter as being at that time premises with a resident landlord if—

(a) immediately before the date when the **[**F23relevant person**]** acquired his interest in the premises the premises were (or, had this Chapter **[**F24, or, as the case may be, the amendments of this Chapter made by the Housing Act 1996,**]** then been in force, would have been) such premises for the purposes of this Chapter; and

(b) the **[**F25relevant person, or an adult member of that person's**]** family—

(i) entered into occupation of a flat contained in the premises **[**F26which is a qualifying flat**]** within the period of 28 days beginning with that date, and

(ii) has occupied such a flat as his only or principal home throughout the period beginning with the time when he so entered into occupation and ending with the relevant time.

(3) In paragraph (b) of each of subsections (1) and (2) any reference to a flat includes a reference to a unit (other than a flat) which is used as a dwelling.

(4) Where the **[**F27interest of a relevant person**]** in any premises is held on trust, subsections (1) and (2) shall apply as if, in paragraph (b) of each of those subsections, any reference to the **[**F27a relevant person**]** were instead a reference to a person having an interest under the trust (whether or not also a trustee).

[F28(4A) For the purposes of this section a person is a relevant person, in relation to any premises, if he owns the freehold of the whole or any part of the premises.**]**

(5) For the purposes of this section a person is an adult member of another's family if that person is—

(a) the other's wife or husband; or

(b) a son or daughter or a son-in-law or daughter-in-law of the other, or of the other's wife or husband, who has attained the age of 18; or

(c) the father or mother of the other, or of the other's wife or husband;

and in paragraph (b) any reference to a person's son or daughter includes a reference to any stepson or stepdaughter of that person, and "son-in-law" and "daughter-in-law" shall be construed accordingly.

(6) In this section—

F29 . . .

"purpose-built block of flats" means a building which as constructed contained two or more flats.

[F30"qualifying flat", in relation to a relevant person, or an adult member of a relevant person's family, means a flat the freehold of the whole of which is owned by the relevant person.**]**

Textual Amendments

F21 Words in s. 10(1)(b) substituted (1.10.1996) by 1996 c. 52, s. 107, **Sch. 10 para. 4(2)(a)**; S.I. 1996/2212, **art. 2(2)** (with savings in Sch.)

F22 Words in s. 10(1)(b)(i) inserted (1.10.1996) by 1996 c. 52, s. 107, **Sch. 10 para. 4(2)(b)**; S.I. 1996/2212, **art. 2(2)** (with savings in Sch.)

F23 Words in s. 10(2)(a) substituted (1.10.1996) by 1996 c. 52, s. 107, **Sch. 10 para. 4(3)(a)(i)**; S.I. 1996/2212, **art. 2(2)** (with savings in Sch.)

F24 Words in s. 10(2)(a) inserted (1.10.1996) by 1996 c. 52, s. 107, **Sch. 10 para. 4(3)(a)(ii)**; S.I. 1996/2212, **art. 2(2)** (with savings in Sch.)

F25 Words in s. 10(2)(b) substituted (1.10.1996) by 1996 c. 52, s. 107, **Sch. 10 para. 4(3)(b)(i)**; S.I. 1996/2212, **art. 2(2)** (with savings in Sch.)

F26 Words in s. 10(2)(b)(i) inserted (1.10.1996) by 1996 c. 52, s. 107, **Sch. 10 para. 4(3)(b)(ii)**; S.I. 1996/2212, **art. 2(2)** (with savings in Sch.)

F27 Words in s. 10(4) substituted (1.10.1996) by 1996 c. 52, s. 107, **Sch. 10 para. 4(a)(b)**; S.I. 1996/2212, **art. 2(2)** (with savings in Sch.)

F28 S. 10(4A) inserted (1.10.1996) by 1996 c. 52, s. 107, **Sch. 10 para. 4(5)**; S.I. 1996/2212, **art. 2(2)** (with savings in Sch.)

F29 Definition in s. 10(6) repealed (1.10.1996) by 1996 c. 52, s. 227, **Sch. 19 Pt.V**; S.I. 1996/2212, **art. 2(2)** (with savings in Sch.)

F30 Definition in s. 10(6) inserted (1.10.1996) by 1996 c. 52, s. 107, **Sch. 10 para. 4(6)**; S.I. 1996/2212, **art. 2(2)** (with savings in Sch.)

Preliminary inquiries by tenants

11 Right of qualifying tenant to obtain information about superior interests etc.

(1) A qualifying tenant of a flat may give—

(a) to **[**F31any immediate landlord of his**]**, or

(b) to any person receiving rent on behalf of **[**F31any immediate landlord of his**]**,

a notice requiring the recipient to give the tenant (so far as known to the recipient) the name and address of **[**F31every person who owns a freehold interest in**]** the relevant premises and the name and address of every other person who has an interest to which subsection (2) applies.

(2) In relation to a qualifying tenant of a flat, this subsection applies to the following interests, namely—

(a) the freehold of any property not contained in the relevant premises—

(i) which is demised by the lease held by the tenant, or

(ii) which the tenant is entitled under the terms of his lease to use in common with other persons; and

(b) any leasehold interest in the relevant premises or in any such property which is superior to that of **[**F32any immediate landlord of the tenant**]**.

(3) Any qualifying tenant of a flat may give to **[**F33any person who owns a freehold interest in**]** the relevant premises a notice requiring him to give the tenant (so far as known to him) the name and address of every person, apart from the tenant, who is—

(a) a tenant of the whole of the relevant premises, or

(b) a tenant or licensee of any separate set or sets of premises contained in the relevant premises, or

(c) a tenant or licensee of the whole or any part of any common parts so contained or of any property not so contained—

(i) which is demised by the lease held by a qualifying tenant of a flat contained in the relevant premises, or

(ii) which any such qualifying tenant is entitled under the terms of his lease to use in common with other persons.

(4) Any such qualifying tenant may also give—

[F34(a) to any person who owns a freehold interest in the relevant premises,

(aa) to any person who owns a freehold interest in any such property as is mentioned in subsection (3)(c),**]**

(b) to any person falling within subsection (3)(a), (b) or (c),

a notice requiring him to give the tenant—

(i) such information relating to his interest in the relevant premises or (as the case may be) in any such property F35. . ., or

(ii) (so far as known to him) such information relating to any interest derived (whether directly or indirectly) out of that interest,

as is specified in the notice, where the information is reasonably required by the tenant in connection with the making of a claim to exercise the right to collective enfranchisement in relation to the whole or part of the relevant premises.

(5) Where a notice is given by a qualifying tenant under subsection (4), the following rights shall be exercisable by him in relation to the recipient of the notice, namely—

(a) a right, on giving reasonable notice, to be provided with a list of documents to which subsection (6) applies;

(b) a right to inspect, at any reasonable time and on giving reasonable notice, any documents to which that subsection applies; and

(c) a right, on payment of a reasonable fee, to be provided with a copy of any documents which are contained in any list provided under paragraph (a) or have been inspected under paragraph (b).

(6) This subsection applies to any document in the custody or under the control of the recipient of the notice under subsection (4)—

(a) sight of which is reasonably required by the qualifying tenant in connection with the making of such a claim as is mentioned in that subsection; and

(b) which, on a proposed sale by a willing seller to a willing buyer of the recipient's interest in the relevant premises or (as the case may be) in any such property as is mentioned in subsection (3)(c), the seller would be expected to make available to the buyer (whether at or before contract or completion).

(7) Any person who—

(a) is required by a notice under any of subsections (1) to (4) to give any information to a qualifying tenant, or

(b) is required by a qualifying tenant under subsection (5) to supply any list of documents, to permit the inspection of any documents or to supply a copy of any documents,

shall comply with that requirement within the period of 28 days beginning with the date of the giving of the notice referred to in paragraph (a) or (as the case may be) with the date of the making of the requirement referred to in paragraph (b).

(8) Where—

(a) a person has received a notice under subsection (4), and

(b) within the period of six months beginning with the date of receipt of the notice, he—

(i) disposes of any interest (whether legal or equitable) in the relevant premises **[**F36or in any such property as is mentioned in subsection (3)(c)**]** otherwise than by the creation of an interest by way of security for a loan, or

(ii) acquires any such interest (otherwise than by way of security for a loan),

then (unless that disposal or acquisition has already been notified to the qualifying tenant in accordance with subsection (7)) he shall notify the qualifying tenant of that disposal or acquisition within the period of 28 days beginning with the date when it occurred.

(9) In this section—

[F37"document" means anything in which information of any description is recorded, and in relation to a document in which information is recorded otherwise than in legible form any reference to sight of the document is to sight of the information in legible form;**]**

"the relevant premises", in relation to any qualifying tenant of a flat, means—

(a) if the person who owns the freehold interest in the flat owns **[**F38, or the persons who own the freehold interests in the flat own,**]** the freehold of the whole of the building in which the flat is contained, that building, or

(b) if that person owns **[**F38, or those persons own,**]** the freehold of part only of that building, that part of that building;

and any reference to an interest in the relevant premises includes an interest in part of those premises.

Textual Amendments

F31 Words in s. 11(1) substituted (1.10.1996) by 1996 c. 52, s. 107, **Sch. 10 para. 5(2)(a)(b)**; S.I. 1996/2212, **art. 2(2)** (with savings in Sch.)

F32 Words in s. 11(2)(b) substituted (1.10.1996) by 1996 c. 52, s. 107, **Sch. 10 para. 5(3)**; S.I. 1996/2212, **art. 2(2)** (with saving in Sch.)

F33 Words in s. 11(3) substituted (1.10.1996) by 1996 c. 52, s. 107, **Sch. 10 para. 5(4)**; S.I. 1996/2212, **art. 2(2)** (with saving in Sch.)

F34 S. 11(4)(a)(aa) substituted (1.10.1996) for s. 11(4)(a) by 1996 c. 52, s. 107, **Sch. 10 para. 5(5)**; S.I. 1996/2212, **art. 2(2)** (with savings in Sch.)

F35 Words in s. 11(4)(i) repealed (1.10.1996) by 1996 c. 52, s. 227, **Sch. 19 Pt. V**; S.I. 1996/2212, **art. 2(2)** (with savings in Sch.)

F36 Words in s. 11(8)(b)(i) inserted (1.10.1996) by 1996 c. 52, s. 107, **Sch. 10 para. 5(6)**; S.I. 1996/2212, **art. 2(2)** (with saving in Sch.)

F37 S. 11(9); definition of 'document' substituted (31.1.1997) by 1995 c. 38, s. 15(1), **Sch. 1 para.17** (with ss. 1(3), 6(4)(5), 14); S.I. 1996/3217 art.2

F38 Words in s. 11(9)(a)(b) inserted (1.10.1996) by 1996 c. 52, s. 107, **Sch. 10 para. 5(7)(a)(b)**; S.I. 1996/2212, **art. 2(2)** (with saving in Sch.)

12 Right of qualifying tenant to obtain information about other matters.

(1) Any notice given by a qualifying tenant under section 11(4) shall, in addition to any other requirement imposed in accordance with that provision, require the recipient to give the tenant—

(a) the information specified in subsection (2) below; and

(b) (so far as known to the recipient) the information specified in subsection (3) below.

(2) The information referred to in subsection (1)(a) is—

(a) whether the recipient has received in respect of any premises containing the tenant's flat—

(i) a notice under section 13 in the case of which the relevant claim is still current, or

(ii) a copy of such a notice; and

(b) if so, the date on which the notice under section 13 was given and the name and address of the nominee purchaser for the time being appointed for the purposes of section 15 in relation to that claim.

(3) The information referred to in subsection (1)(b) is—

(a) whether the tenant's flat is comprised in any property in the case of which any of paragraphs (a) to (d) of section 31(2) is applicable; and

(b) if paragraph (b) or (d) of that provision is applicable, the date of the application in question.

(4) Where—

(a) within the period of six months beginning with the date of receipt of a notice given by a tenant under section 11(4), the recipient of the notice receives in respect of any premises containing the tenant's flat—

(i) a notice under section 13, or

(ii) a copy of such a notice, and

(b) the tenant is not one of the qualifying tenants by whom the notice under section 13 is given,

the recipient shall, within the period of 28 days beginning with the date of receipt of the notice under section 13 or (as the case may be) the copy, notify the tenant of the date on which the notice was given and of the name and address of the nominee purchaser for the time being appointed for the purposes of section 15 in relation to the relevant claim.

(5) Where—

(a) the recipient of a notice given by a tenant under section 11(4) has, in accordance with subsection (1) above, informed the tenant of any such application as is referred to in subsection (3)(b) above; and

(b) within the period of six months beginning with the date of receipt of the notice, the application is either granted or refused by the Commissioners of Inland Revenue or is withdrawn by the applicant,

the recipient shall, within the period of 28 days beginning with the date of the granting, refusal or withdrawal of the application, notify the tenant that it has been granted, refused or withdrawn.

(6) In this section "the relevant claim", in relation to a notice under section 13, means the claim in respect of which that notice is given; and for the purposes of subsection (2) above any such claim is current if—

(a) that notice continues in force in accordance with section 13(11), or

(b) a binding contract entered into in pursuance of that notice remains in force, or

(c) where an order has been made under section 24(4)(a) or (b) or 25(6)(a) or (b) with respect to any such premises as are referred to in subsection (2)(a) above, any interests which by virtue of the order fall to be vested in the nominee purchaser have yet to be so vested.

The initial notice

13 Notice by qualifying tenants of claim to exercise right.

(1) A claim to exercise the right to collective enfranchisement with respect to any premises is made by the giving of notice of the claim under this section.

(2) A notice given under this section ("the initial notice")—

(a) must

[F39(i) in a case to which section 9(2) applies,**]** be given to the reversioner in respect of those premises; **[**F40and

(ii) in a case to which section 9(2A) applies, be given to the person specified in the notice as the recipient;**]** and

(b) must be given by a number of qualifying tenants of flats contained in the premises as at the relevant date which—

(i) is not less than two-thirds of the total number of such tenants, and

(ii) is not less than one-half of the total number of flats so contained;

and not less than one-half of the qualifying tenants by whom the notice is given must satisfy the residence condition.

[F41(2A) In a case to which section 9(2A) applies, the initial notice must specify—

(a) a person who owns a freehold interest in the premises, or

(b) if every person falling within paragraph (a) is a person who cannot be found or whose identity cannot be ascertained, a relevant landlord,

as the recipient of the notice.**]**

(3) The initial notice must—

(a) specify and be accompanied by a plan showing—

(i) the premises of which the freehold is proposed to be acquired by virtue of section 1(1),

(ii) any property of which the freehold is proposed to be acquired by virtue of section 1(2)(a), and

(iii) any property [F42]. . . over which it is proposed that rights (specified in the notice) should be granted [F42]. . . in connection with the acquisition of the freehold of the specified premises or of any such property so far as falling within section 1(3)(a);

(b) contain a statement of the grounds on which it is claimed that the specified premises are, on the relevant date, premises to which this Chapter applies;

(c) specify—

(i) any leasehold interest proposed to be acquired under or by virtue of section 2(1)(a) or (b), and

(ii) any flats or other units contained in the specified premises in relation to which it is considered that any of the requirements in Part II of Schedule 9 to this Act are applicable;

(d) specify the proposed purchase price for each of the following, namely—

(i) the freehold interest in the specified premises, **[**[F43]or, if the freehold of the whole of the specified premises is not owned by the same person, each of the freehold interests in those premises**]**

(ii) the freehold interest in any property specified under paragraph (a)(ii), and

(iii) any leasehold interest specified under paragraph (c)(i);

(e) state the full names of all the qualifying tenants of flats contained in the specified premises and the addresses of their flats, and contain the following particulars in relation to each of those tenants, namely—

(i) such particulars of his lease as are sufficient to identify it, including the date on which the lease was entered into, the term for which it was granted and the date of the commencement of the term,

(ii) such further particulars as are necessary to show that the lease is **[**[F44]at a low rent or for a particularly long term**]**, and

(iii) if it is claimed that he satisfies the residence condition, particulars of the period or periods falling within the preceding ten years for which he **[**[F45], or, where the tenant's lease is vested as mentioned in section 6(4), the individual concerned,**]** has occupied the whole or part of **[**[F45]the**]** flat as his only or principal home;

(f) state the full name or names of the person or persons appointed as the nominee purchaser for the purposes of section 15, and an address in England and Wales at which notices may be given to that person or those persons under this Chapter; and

(g) specify the date by which the reversioner must respond to the notice by giving a counter-notice under section 21.

[F46](4) . . . . . .

(5) The date specified in the initial notice in pursuance of subsection (3)(g) must be a date falling not less than two months after the relevant date.

F46(6) . . . . . .

F46(7) . . . . . .

(8) Where any premises have been specified in a notice under this section, no subsequent notice which specifies the whole or part of those premises may be given under this section so long as the earlier notice continues in force.

(9) Where any premises have been specified in a notice under this section and—

(a) that notice has been withdrawn, or is deemed to have been withdrawn, under or by virtue of any provision of this Chapter or under section 74(3), or

(b) in response to that notice, an order has been applied for and obtained under section 23(1),

no subsequent notice which specifies the whole or part of those premises may be given under this section within the period of twelve months beginning with the date of the withdrawal or deemed withdrawal of the earlier notice or with the time when the order under section 23(1) becomes final (as the case may be).

(10) In subsections (8) and (9) any reference to a notice which specifies the whole or part of any premises includes a reference to a notice which specifies any premises which contain the whole or part of those premises; and in those subsections and this "specifies" means specifies under subsection (3)(a)(i).

(11) Where a notice is given in accordance with this section, then for the purposes of this Chapter the notice continues in force as from the relevant date—

(a) until a binding contract is entered into in pursuance of the notice, or an order is made under section 24(4)(a) or (b) or 25(6)(a) or (b) providing for the vesting of interests in the nominee purchaser;

(b) if the notice is withdrawn or deemed to have been withdrawn under or by virtue of any provision of this Chapter or under section 74(3), until the date of the withdrawal or deemed withdrawal, or

(c) until such other time as the notice ceases to have effect by virtue of any provision of this Chapter.

(12) In this Chapter "the specified premises", in relation to a claim made under this Chapter, means—

(a) the premises specified in the initial notice under subsection (3)(a)(i), or

(b) if it is subsequently agreed or determined under this Chapter that any less extensive premises should be acquired in pursuance of the notice in satisfaction of the claim, those premises;

and similarly references to any property or interest specified in the initial notice under subsection (3)(a)(ii) or (c)(i) shall, if it is subsequently agreed or determined under this Chapter that any less extensive property or interest should be acquired in pursuance of the notice, be read as references to that property or interest.

(13) Schedule 3 to this Act (which contains restrictions on participating in the exercise of the right to collective enfranchisement, and makes further provision in connection with the giving of notices under this section) shall have effect.

Textual Amendments

F39 Words in s. 13(2)(a) inserted (1.10.1996) by 1996 c. 52, s. 107, **Sch. 10 para. 6(2)(a)**; S.I. 1996/2212, **art. 2(2)** (with savings in Sch.)

F40 S. 13(2)(a)(ii) and preceding word inserted (1.10.1996) by 1996 c. 52, s. 107, **Sch. 10 para. 6(2)(b)**; S.I. 1996/2212, **art. 2(2)** (with saving in Sch.)

F41 S. 13(2A) inserted (1.10.1996) by 1996 c. 52, s. 107, **Sch. 10 para. 6(3)**; S.I. 1996/2212, **art. 2(2)** (with saving in Sch.)

F42 Words in s. 13(3)(a)(iii) repealed (1.10.1996) by 1996 c. 52, s. 227, **Sch. 19 Pt V**; S.I. 1996/2212, **art. 2(2)** (with savings in Sch.)

F43 Words in s. 13(3)(d)(i) inserted (1.10.1996) by 1996 c. 52, s. 107, **Sch. 10 para. 6(4)**; S.I. 1996/2212, **art. 2(2)** (with savings in Sch.)

F44 Words in s. 13(3)(e)(ii) substituted (1.4.1997) by 1996 c. 52, s. 106, **Sch. 9 para. 3(4)**; S.I. 1997/618, **art. 2(1)** (with savings in Sch.)

F45 Words in s. 13(3)(e)(iii) inserted (1.10.1996) by 1996 c. 52, **s. 111(2)(a)(b)**; S.I. 1996/2212, **art. 2(2)** (with savings in Sch.)

F46 S. 13(4)(6)(7) repealed (1.10.1996) by 1996 c. 52, s. 227, **Sch. 19 Pt. V**; S.I. 1996/2212, **art. 2(2)** (with savings in Sch.)

Participating tenants and nominee purchaser

14 The participating tenants.

(1) In relation to any claim to exercise the right to collective enfranchisement, the participating tenants are (subject to the provisions of this section and Part I of Schedule 3) the following persons, namely—

(a) in relation to the relevant date, the qualifying tenants by whom the initial notice is given; and

(b) in relation to any time falling after that date, such of those qualifying tenants as for the time being remain qualifying tenants of flats contained in the specified premises.

(2) Where the lease by virtue of which a participating tenant is a qualifying tenant of his flat is assigned to another person, the assignee of the lease shall, within the period of 14 days beginning with the date of the assignment, notify the nominee purchaser—

(a) of the assignment, and

(b) as to whether or not the assignee is electing to participate in the proposed acquisition.

(3) Where a qualifying tenant of a flat contained in the specified premises—

(a) is not one of the persons by whom the initial notice was given, and

(b) is not such an assignee of the lease of a participating tenant as is mentioned in subsection (2),

then (subject to paragraph 8 of Schedule 3) he may elect to participate in the proposed acquisition, but only with the agreement of all the persons who are for the time being participating tenants; and, if he does so elect, he shall notify the nominee purchaser forthwith of his election.

(4) Where a person notifies the nominee purchaser under subsection (2) or (3) of his election to participate in the proposed acquisition, he shall be regarded as a participating tenant for the purposes of this Chapter—

(a) as from the date of the assignment or agreement referred to in that subsection; and

(b) so long as he remains a qualifying tenant of a flat contained in the specified premises.

(5) Where a participating tenant dies, his personal representatives shall, within the period of 56 days beginning with the date of death, notify the nominee purchaser—

(a) of the death of the tenant, and

(b) as to whether or not the personal representatives are electing to withdraw from participation in the proposed acquisition;

and, unless the personal representatives of a participating tenant so notify the nominee purchaser that they are electing to withdraw from participation in that acquisition, they shall be regarded as a participating tenant for the purposes of this Chapter—

(i) as from the date of the death of the tenant, and

(ii) so long as his lease remains vested in them.

(6) Where in accordance with subsection (4) or (5) any assignee or personal representatives of a participating tenant ("the tenant") is or are to be regarded as a participating tenant for the purposes of this Chapter, any arrangements made between the nominee purchaser and the participating tenants and having effect immediately before the date of the assignment or (as the case may be) the date of death shall have effect as from that date—

(a) with such modifications as are necessary for substituting the assignee or (as the case may be) the personal representatives as a party to the arrangements in the place of the tenant; or

(b) in the case of an assignment by a person who remains a qualifying tenant of a flat contained in the specified premises, with such modifications as are necessary for adding the assignee as a party to the arrangements.

(7) Where the nominee purchaser receives a notification under subsection (2), (3) or (5), he shall, within the period of 28 days beginning with the date of receipt of the notification—

(a) give a notice under subsection (8) to the reversioner in respect of the specified premises, and

(b) give a copy of that notice to every other relevant landlord.

(8) A notice under this subsection is a notice stating—

(a) in the case of a notification under subsection (2)—

(i) the date of the assignment and the name and address of the assignee,

(ii) that the assignee has or (as the case may be) has not become a participating tenant in accordance with subsection (4), and

(iii) if he has become a participating tenant (otherwise than in a case to which subsection (6)(b) applies), that he has become such a tenant in place of his assignor;

(b) in the case of a notification under subsection (3), the name and address of the person who has become a participating tenant in accordance with subsection (4); and

(c) in the case of a notification under subsection (5)—

(i) the date of death of the deceased tenant,

(ii) the names and addresses of the personal representatives of the tenant, and

(iii) that in accordance with that subsection those persons are or (as the case may be) are not to be regarded as a participating tenant.

(9) Every notice under subsection (8)—

(a) shall identify the flat with respect to which it is given; and

(b) if it states that any person or persons is or are to be regarded as a participating tenant, shall be signed by the person or persons in question.

(10) In this section references to assignment include an assent by personal representatives and assignment by operation of law, where the assignment is—

(a) to a trustee in bankruptcy, or

(b) to a mortgagee under section 89(2) of the [M13]Law of Property Act 1925 (foreclosure of leasehold mortgage),

and references to an assignee shall be construed accordingly.

(11) Nothing in this section has effect for requiring or authorising anything to be done at any time after a binding contract is entered into in pursuance of the initial notice.

Marginal Citations

M13 1925 c. 20.

15 The nominee purchaser: appointment and replacement.

(1) The nominee purchaser shall conduct on behalf of the participating tenants all proceedings arising out of the initial notice, with a view to the eventual acquisition by him, on their behalf, of such freehold and other interests as fall to be so acquired under a contract entered into in pursuance of that notice.

(2) In relation to any claim to exercise the right to collective enfranchisement with respect to any premises, the nominee purchaser shall be such person or persons as may for the time being be appointed for the purposes of this section by the participating tenants; and in the first instance the nominee purchaser shall be the person or persons specified in the initial notice in pursuance of section 13(3)(f).

(3) The appointment of any person as the nominee purchaser, or as one of the persons constituting the nominee purchaser, may be terminated by the participating tenants by the giving of a notice stating that that person's appointment is to terminate on the date on which the notice is given.

(4) Any such notice must be given—

(a) to the person whose appointment is being terminated, and

(b) to the reversioner in respect of the specified premises.

(5) Any such notice must in addition either—

(a) specify the name or names of the person or persons constituting the nominee purchaser as from the date of the giving of the notice, and an address in England and Wales at which notices may be given to that person or those persons under this Chapter; or

(b) state that the following particulars will be contained in a further notice given to the reversioner within the period of 28 days beginning with that date, namely—

(i) the name of the person or persons for the time being constituting the nominee purchaser,

(ii) if falling after that date, the date of appointment of that person or of each of those persons, and

(iii) an address in England and Wales at which notices may be given to that person or those persons under this Chapter;

and the appointment of any person by way of replacement for the person whose appointment is being terminated shall not be valid unless his name is specified, or is one of those specified, under paragraph (a) or (b).

(6) Where the appointment of any person is terminated in accordance with this section, anything done by or in relation to the nominee purchaser before the date of termination of that person's appointment shall be treated, so far as necessary for the purpose of continuing its effect, as having been done by or in relation to the nominee purchaser as constituted on or after that date.

(7) Where the appointment of any person is so terminated, he shall not be liable under section 33 for any costs incurred in connection with the proposed acquisition under this Chapter at any time after the date of termination of his appointment; but if—

(a) at any such time he is requested by the nominee purchaser for the time being to supply to the nominee purchaser, at an address in England and Wales specified in the request, all or any documents in his custody or under his control that relate to that acquisition, and

(b) he fails without reasonable cause to comply with any such request or is guilty of any unreasonable delay in complying with it,

he shall be liable for any costs which are incurred by the nominee purchaser, or for which the nominee purchaser is liable under section 33, in consequence of the failure.

(8) Where—

(a) two or more persons together constitute the nominee purchaser, and

(b) the appointment of any (but not both or all) of them is terminated in accordance with this section without any person being appointed by way of immediate replacement,

the person or persons remaining shall for the time being constitute the nominee purchaser.

(9) Where—

(a) a notice given under subsection (3) contains such a statement as is mentioned in subsection (5)(b), and

(b) as a result of the termination of the appointment in question there is no nominee purchaser for the time being,

the running of any period which—

(i) is prescribed by or under this Part for the giving of any other notice or the making of any application, and

(ii) would otherwise expire during the period beginning with the date of the giving of the notice under subsection (3) and ending with the date when the particulars specified in subsection (5)(b) are notified to the reversioner,

shall (subject to subsection (10)) be suspended throughout the period mentioned in paragraph (ii).

(10) If—

(a) the circumstances are as mentioned in subsection (9)(a) and (b), but

(b) the particulars specified in subsection (5)(b) are not notified to the reversioner within the period of 28 days specified in that provision,

the initial notice shall be deemed to have been withdrawn at the end of that period.

(11) A copy of any notice given under subsection (3) or (5)(b) shall be given by the participating tenants to every relevant landlord (other than the reversioner) to whom the initial notice or a copy of it was given in accordance with section 13 and Part II of Schedule 3; and, where a notice under subsection (3) terminates the appointment of a person who is one of two or more persons together constituting the nominee purchaser, a copy of the notice shall also be so given to every other person included among those persons.

(12) Nothing in this section applies in relation to the termination of the appointment of the nominee purchaser (or of any of the persons constituting the nominee purchaser) at any time after a binding contract is entered into in pursuance of the initial notice; and in this Chapter references to the nominee purchaser, so far as referring to anything done by or in relation to the nominee purchaser at any time falling after such a contract is so entered into, are references to the person or persons constituting the nominee purchaser at the time when the contract is entered into or such other person as is for the time being the purchaser under the contract.

16 The nominee purchaser: retirement or death.

(1) The appointment of any person as the nominee purchaser, or as one of the persons constituting the nominee purchaser, may be terminated by that person by the giving of a notice stating that he is resigning his appointment with effect from 21 days after the date of the notice.

(2) Any such notice must be given—

(a) to each of the participating tenants; and

(b) to the reversioner in respect of the specified premises.

(3) Where the participating tenants have received any such notice, they shall, within the period of 56 days beginning with the date of the notice, give to the reversioner a notice informing him of the resignation and containing the following particulars, namely—

(a) the name or names of the person or persons for the time being constituting the nominee purchaser,

(b) if falling after that date, the date of appointment of that person or of each of those persons, and

(c) an address in England and Wales at which notices may be given to that person or those persons under this Chapter;

and the appointment of any person by way of replacement for the person resigning his appointment shall not be valid unless his name is specified, or is one of those specified, under paragraph (a).

(4) Subsections (6) to (8) of section 15 shall have effect in connection with a person's resignation of his appointment in accordance with this section as they have effect in connection with the termination of a person's appointment in accordance with that section.

(5) Where the person, or one of the persons, constituting the nominee purchaser dies, the participating tenants shall, within the period of 56 days beginning with the date of death, give to the reversioner a notice informing him of the death and containing the following particulars, namely—

(a) the name or names of the person or persons for the time being constituting the nominee purchaser,

(b) if falling after that date, the date of appointment of that person or of each of those persons, and

(c) an address in England and Wales at which notices may be given to that person or those persons under this Chapter;

and the appointment of any person by way of replacement for the person who has died shall not be valid unless his name is specified, or is one of those specified, under paragraph (a).

(6) Subsections (6) and (8) of section 15 shall have effect in connection with the death of any such person as they have effect in connection with the termination of a person's appointment in accordance with that section.

(7) If—

(a) the participating tenants are required to give a notice under subsection (3) or (5), and

(b) as a result of the resignation or death referred to in that subsection there is no nominee purchaser for the time being,

the running of any period which—

(i) is prescribed by or under this Part for the giving of any other notice or the making of any application, and

(ii) would otherwise expire during the period beginning with the relevant date and ending with the date when the particulars specified in that subsection are notified to the reversioner,

shall (subject to subsection (8)) be suspended throughout the period mentioned in paragraph (ii); and for this purpose "the relevant date" means the date of the notice of resignation under subsection (1) or the date of death (as the case may be).

(8) If—

(a) the circumstances are as mentioned in subsection (7)(a) and (b), but

(b) the participating tenants fail to give a notice under subsection (3) or (as the case may be) subsection (5) within the period of 56 days specified in that subsection,

the initial notice shall be deemed to have been withdrawn at the end of that period.

(9) Where a notice under subsection (1) is given by a person who is one of two or more persons together constituting the nominee purchaser, a copy of the notice shall be given by him to every other person included among those persons; and a copy of any notice given under subsection (3) or (5) shall be given by the participating tenants to every relevant landlord (other than the reversioner) to whom the initial notice or a copy of it was given in accordance with section 13 and Part II of Schedule 3.

(10) Nothing in this section applies in relation to the resignation or death of the nominee purchaser (or any of the persons together constituting the nominee purchaser) at any time after a binding contract is entered into in pursuance of the initial notice.

Procedure following giving of initial notice

17 Access by relevant landlords for valuation purposes.

(1) Once the initial notice or a copy of it has been given in accordance with section 13 or Part II of Schedule 3 to the reversioner or to any other relevant landlord, that person and any person authorised to act on his behalf shall, in the case of—

(a) any part of the specified premises, or

(b) any part of any property specified in the notice under section 13(3)(a)(ii),

in which he has a freehold or leasehold interest which is included in the proposed acquisition by the nominee purchaser, have a right of access thereto for the purpose of enabling him to obtain a valuation of that interest in connection with the notice.

(2) Once the initial notice has been given in accordance with section 13, the nominee purchaser and any person authorised to act on his behalf shall have a right of access to—

(a) any part of the specified premises, or

(b) any part of any property specified in the notice under section 13(3)(a)(ii),

where such access is reasonably required by the nominee purchaser in connection with any matter arising out of the notice.

(3) A right of access conferred by this section shall be exercisable at any reasonable time and on giving not less than 10 days' notice to the occupier of any premises to which access is sought (or, if those premises are unoccupied, to the person entitled to occupy them).

18 Duty of nominee purchaser to disclose existence of agreements affecting specified premises etc.

(1) If at any time during the period beginning with the relevant date and ending with the valuation date for the purposes of Schedule 6—

(a) there subsists between the nominee purchaser and a person other than a participating tenant any agreement (of whatever nature) providing for the disposal of a relevant interest, or

(b) if the nominee purchaser is a company, any person other than a participating tenant holds any share in that company by virtue of which a relevant interest may be acquired,

the existence of that agreement or shareholding shall be notified to the reversioner by the nominee purchaser as soon as possible after the agreement or shareholding is made or established or, if in existence on the relevant date, as soon as possible after that date.

(2) If—

(a) the nominee purchaser is required to give any notification under subsection (1) but fails to do so before the price payable to the reversioner or any other relevant landlord in respect of the acquisition of any interest of his by the nominee purchaser is determined for the purposes of Schedule 6, and

(b) it may reasonably be assumed that, had the nominee purchaser given the notification, it would have resulted in the price so determined being increased by an amount referable to the existence of any agreement or shareholding falling within subsection (1)(a) or (b),

the nominee purchaser and the participating tenants shall be jointly and severally liable to pay the amount to the reversioner or (as the case may be) the other relevant landlord.

(3) In subsection (1) "relevant interest" means any interest in, or in any part of, the specified premises or any property specified in the initial notice under section 13(3)(a)(ii).

(4) Paragraph (a) of subsection (1) does not, however, apply to an agreement if the only disposal of such an interest for which it provides is one consisting in the creation of an interest by way of security for a loan.

19 Effect of initial notice as respects subsequent transactions by freeholder etc.

(1) Where the initial notice has been registered in accordance with section 97(1), then so long as it continues in force—

(a) **[**F47any person who owns the freehold of the whole or any part of the specified premises or the freehold of any property specified in the notice under section 13(3)(a)(ii)**]** shall not—

(i) make any disposal severing his interest in those premises or in **[**F48that property**]**, or

(ii) grant out of that interest any lease under which, if it had been granted before the relevant date, the interest of the tenant would to any extent have been liable on that date to acquisition by virtue of section 2(1)(a) or (b); and

(b) no other relevant landlord shall grant out of his interest in the specified premises or in any property so specified any such lease as is mentioned in paragraph (a)(ii);

and any transaction shall be void to the extent that it purports to effect any such disposal or any such grant of a lease as is mentioned in paragraph (a) or (b).

(2) Where the initial notice has been so registered and at any time when it continues in force—

[F49(a) any person who owns the freehold of the whole or any part of the specified premises or the freehold of any property specified in the notice under section 13(3)(a)(ii) disposes of his interest in those premises or that property,**]** or

(b) any other relevant landlord disposes of any interest of his specified in the notice under section 13(3)(c)(i),

subsection (3) below shall apply in relation to that disposal.

(3) Where this subsection applies in relation to any such disposal as is mentioned in subsection (2)(a) or (b), all parties shall for the purposes of this Chapter be in the same position as if the person acquiring the interest under the disposal—

(a) had become its owner before the initial notice was given (and was accordingly a relevant landlord in place of the person making the disposal), and

(b) had been given any notice or copy of a notice given under this Chapter to that person, and

(c) had taken all steps which that person had taken;

and, if any subsequent disposal of that interest takes place at any time when the initial notice continues in force, this subsection shall apply in relation to that disposal as if any reference to the person making the disposal included any predecessor in title of his.

(4) Where immediately before the relevant date there is in force a binding contract relating to the disposal to any extent—

[[F50](a) by any person who owns the freehold of the whole or any part of the specified premises or the freehold of any property specified in the notice under section 13(3)(a)(ii),**]**

(b) by any other relevant landlord,

of any interest of his falling within subsection (2)(a) or (b), then, so long as the initial notice continues in force, the operation of the contract shall be suspended so far as it relates to any such disposal.

(5) Where—

(a) the operation of a contract has been suspended under subsection (4) ("the suspended contract"), and

(b) a binding contract is entered into in pursuance of the initial notice,

then (without prejudice to the general law as to the frustration of contracts) the person referred to in paragraph (a) or (b) of that subsection shall, together with all other persons, be discharged from the further performance of the suspended contract so far as it relates to any such disposal as is mentioned in subsection (4).

(6) In subsections (4) and (5) any reference to a contract (except in the context of such a contract as is mentioned in subsection (5)(b)) includes a contract made in pursuance of an order of any court; but those subsections do not apply to any contract providing for the eventuality of a notice being given under section 13 in relation to the whole or part of the property in which any such interest as is referred to in subsection (4) subsists.

Textual Amendments

F47 Words in s. 19(1)(a) substituted (1.10.1996) by 1996 c. 52, s. 107, **Sch. 10 para. 7(2)(a)**; S.I. 1996/2212, **art. 2(2)** (with savings in Sch.)

F48 Words in s. 19(1)(a)(i) substituted (1.10.1996) by 1996 c. 52, s. 107, **Sch. 10 para. 7(2)(b)**; S.I. 1996/2212, **art. 2(2)** (with savings in Sch.)

F49 S. 19(2)(a) substituted (1.10.1996) by 1996 c. 52, s. 107, **Sch. 10 para. 7(3)**; S.I. 1996/2212, **art. 2(2)** (with savings in Sch.)

F50 S. 19(4)(a) substituted (1.10.1996) by 1996 c. 52, s. 107, **Sch. 10 para. 7(4)**; S.I. 1996/2212, **art. 2(2)** (with savings in Sch.)

20 Right of reversioner to require evidence of tenant's right to participate.

(1) The reversioner in respect of the specified premises may, within the period of 21 days beginning with the relevant date, give the nominee purchaser a notice requiring him, in the case of any person by whom the initial notice was given, to deduce the title of that person to the lease by virtue of which it is claimed that he is a qualifying tenant of a flat contained in the specified premises.

(2) The nominee purchaser shall comply with any such requirement within the period of 21 days beginning with the date of the giving of the notice.

(3) Where—

(a) the nominee purchaser fails to comply with a requirement under subsection (1) in the case of any person within the period mentioned in subsection (2), and

(b) the initial notice would not have been given in accordance with section 13(2)(b) if—

(i) that person, and

(ii) any other person in the case of whom a like failure by the nominee purchaser has occurred,

had been neither included among the persons who gave the notice nor included among the qualifying tenants of the flats referred to in that provision,

the initial notice shall be deemed to have been withdrawn at the end of that period.

21 Reversioner's counter-notice.

(1) The reversioner in respect of the specified premises shall give a counter-notice under this section to the nominee purchaser by the date specified in the initial notice in pursuance of section 13(3)(g).

(2) The counter-notice must comply with one of the following requirements, namely—

(a) state that the reversioner admits that the participating tenants were on the relevant date entitled to exercise the right to collective enfranchisement in relation to the specified premises;

(b) state that, for such reasons as are specified in the counter-notice, the reversioner does not admit that the participating tenants were so entitled;

(c) contain such a statement as is mentioned in paragraph (a) or (b) above but state that an application for an order under subsection (1) of section 23 is to be made by such appropriate landlord (within the meaning of that section) as is specified in the counter-notice, on the grounds that he intends to redevelop the whole or a substantial part of the specified premises.

(3) If the counter-notice complies with the requirement set out in subsection (2)(a), it must in addition—

(a) state which (if any) of the proposals contained in the initial notice are accepted by the reversioner and which (if any) of those proposals are not so accepted, and specify—

(i) in relation to any proposal which is not so accepted, the reversioner's counter-proposal, and

(ii) any additional leaseback proposals by the reversioner;

(b) if (in a case where any property specified in the initial notice under section 13(3)(a)(ii) is property falling within section 1(3)(b)) any such counter-proposal relates to the grant of rights or the disposal of any freehold interest in pursuance of section 1(4), specify—

(i) the nature of those rights and the property over which it is proposed to grant them, or

(ii) the property in respect of which it is proposed to dispose of any such interest,

as the case may be;

(c) state which interests (if any) the nominee purchaser is to be required to acquire in accordance with subsection (4) below;

(d) state which rights (if any) **[**[F51]any**]** relevant landlord, desires to retain—

(i) over any property in which he has any interest which is included in the proposed acquisition by the nominee purchaser, or

(ii) over any property in which he has any interest which the nominee purchaser is to be required to acquire in accordance with subsection (4) below,

on the grounds that the rights are necessary for the proper management or maintenance of property in which he is to retain a freehold or leasehold interest; and

(e) include a description of any provisions which the reversioner or any other relevant landlord considers should be included in any conveyance to the nominee purchaser in accordance with section 34 and Schedule 7.

(4) The nominee purchaser may be required to acquire on behalf of the participating tenants the interest in any property of **[**F52any**]** relevant landlord, if the property—

(a) would for all practical purposes cease to be of use and benefit to him, or

(b) would cease to be capable of being reasonably managed or maintained by him,

in the event of his interest in the specified premises or (as the case may be) in any other property being acquired by the nominee purchaser under this Chapter.

(5) Where a counter-notice specifies any interest in pursuance of subsection (3)(c), the nominee purchaser or any person authorised to act on his behalf shall, in the case of any part of the property in which that interest subsists, have a right of access thereto for the purpose of enabling the nominee purchaser to obtain, in connection with the proposed acquisition by him, a valuation of that interest; and subsection (3) of section 17 shall apply in relation to the exercise of that right as it applies in relation to the exercise of a right of access conferred by that section.

(6) Every counter-notice must specify an address in England and Wales at which notices may be given to the reversioner under this Chapter.

(7) The reference in subsection (3)(a)(ii) to additional leaseback proposals is a reference to proposals which relate to the leasing back, in accordance with section 36 and Schedule 9, of flats or other units contained in the specified premises and which are made either—

(a) in respect of flats or other units in relation to which Part II of that Schedule is applicable but which were not specified in the initial notice under section 13(3)(c)(ii), or

(b) in respect of flats or other units in relation to which Part III of that Schedule is applicable.

(8) Schedule 4 (which imposes requirements as to the furnishing of information by the reversioner about the exercise of rights under Chapter II with respect to flats contained in the specified premises) shall have effect.

Textual Amendments

F51 Words in s. 21(3)(d) substituted (1.10.1996) by 1996 c. 52, s. 107, **Sch. 10 para. 8(2)**; S.I. 1996/2212, **art. 2(2)** (with savings in Sch.)

F52 Words in s. 21(4) substituted (1.10.1996) by 1996 c. 52, s. 107, **Sch. 10 para. 8(3)**; S.I. 1996/2212, **art. 2(2)** (with savings in Sch.)

Modifications etc. (not altering text)

C1 S. 21 amended (E.) (10.4.2003) by the The Leasehold Reform (Collective Enfranchisement) (Counter-notices) (England) Regulations 2002 (S.I. 2002/3208), **regs. 4**, 5

Applications to court or leasehold valuation tribunal

22 Proceedings relating to validity of initial notice.

(1) Where—

(a) the reversioner in respect of the specified premises has given the nominee purchaser a counter-notice under section 21 which (whether it complies with the requirement set out in subsection (2)(b) or (c) of that section) contains such a statement as is mentioned in subsection (2)(b) of that section, but

(b) the court is satisfied, on an application made by the nominee purchaser, that the participating tenants were on the relevant date entitled to exercise the right to collective enfranchisement in relation to the specified premises,

the court shall by order make a declaration to that effect.

(2) Any application for an order under subsection (1) must be made not later than the end of the period of two months beginning with the date of the giving of the counter-notice to the nominee purchaser.

(3) If on any such application the court makes an order under subsection (1), then (subject to subsection (4)) the court shall make an order—

(a) declaring that the reversioner's counter-notice shall be of no effect, and

(b) requiring the reversioner to give a further counter-notice to the nominee purchaser by such date as is specified in the order.

(4) Subsection (3) shall not apply if—

(a) the counter-notice complies with the requirement set out in section 21(2)(c), and

(b) either—

(i) an application for an order under section 23(1) is pending, or

(ii) the period specified in section 23(3) as the period for the making of such an application has not expired.

(5) Subsections (3) to (5) of section 21 shall apply to any further counter-notice required to be given by the reversioner under subsection (3) above as if it were a counter-notice under that section complying with the requirement set out in subsection (2)(a) of that section.

(6) If an application by the nominee purchaser for an order under subsection (1) is dismissed by the court, the initial notice shall cease to have effect at the time when the order dismissing the application becomes final.

23 Tenants' claim liable to be defeated where landlord intends to redevelop.

(1) Where the reversioner in respect of the specified premises has given a counter-notice under section 21 which complies with the requirement set out in subsection (2)(c) of that section, the court may, on the application of any appropriate landlord, by order declare that the right to collective enfranchisement shall not be exercisable in relation to those premises by reason of that landlord's intention to redevelop the whole or a substantial part of the premises.

(2) The court shall not make an order under subsection (1) unless it is satisfied—

(a) that not less than two-thirds of all the long leases on which flats contained in the specified premises are held are due to terminate within the period of five years beginning with the relevant date; and

(b) that for the purposes of redevelopment the applicant intends, once the leases in question have so terminated—

(i) to demolish or reconstruct, or

(ii) to carry out substantial works of construction on,

the whole or a substantial part of the specified premises; and

(c) that he could not reasonably do so without obtaining possession of the flats demised by those leases.

(3) Any application for an order under subsection (1) must be made within the period of two months beginning with the date of the giving of the counter-notice to the nominee purchaser; but, where the counter-notice is one falling within section 22(1)(a), such an application shall not be proceeded with until such time (if any) as an order under section 22(1) becomes final.

(4) Where an order under subsection (1) is made by the court, the initial notice shall cease to have effect on the order becoming final.

(5) Where an application for an order under subsection (1) is dismissed by the court, the court shall make an order—

(a) declaring that the reversioner's counter-notice shall be of no effect, and

(b) requiring the reversioner to give a further counter-notice to the nominee purchaser by such date as is specified in the order.

(6) Where—

(a) the reversioner has given such a counter-notice as is mentioned in subsection (1), but

(b) either—

(i) no application for an order under that subsection is made within the period referred to in subsection (3), or

(ii) such an application is so made but is subsequently withdrawn,

then (subject to subsection (8)), the reversioner shall give a further counter-notice to the nominee purchaser within the period of two months beginning with the appropriate date.

(7) In subsection (6) "the appropriate date" means—

(a) if subsection (6)(b)(i) applies, the date immediately following the end of the period referred to in subsection (3); and

(b) if subsection (6)(b)(ii) applies, the date of withdrawal of the application.

(8) Subsection (6) shall not apply if any application has been made by the nominee purchaser under section 22(1).

(9) Subsections (3) to (5) of section 21 shall apply to any further counter-notice required to be given by the reversioner under subsection (5) or (6) above as if it were a counter-notice under that section complying with the requirement set out in subsection (2)(a) of that section.

(10) In this section "appropriate landlord", in relation to the specified premises, means—

(a) the reversioner or any other relevant landlord; or

(b) any two or more persons falling within paragraph (a) who are acting together.

24 Applications where terms in dispute or failure to enter contract.

(1) Where the reversioner in respect of the specified premises has given the nominee purchaser—

(a) a counter-notice under section 21 complying with the requirement set out in subsection (2)(a) of that section, or

(b) a further counter-notice required by or by virtue of section 22(3) or section 23(5) or (6),

but any of the terms of acquisition remain in dispute at the end of the period of two months beginning with the date on which the counter-notice or further counter-notice was so given, a leasehold valuation tribunal may, on the application of either the nominee purchaser or the reversioner, determine the matters in dispute.

(2) Any application under subsection (1) must be made not later than the end of the period of six months beginning with the date on which the counter-notice or further counter-notice was given to the nominee purchaser.

(3) Where—

(a) the reversioner has given the nominee purchaser such a counter-notice or further counter-notice as is mentioned in subsection (1)(a) or (b), and

(b) all of the terms of acquisition have been either agreed between the parties or determined by a leasehold valuation tribunal under subsection (1),

but a binding contract incorporating those terms has not been entered into by the end of the appropriate period specified in subsection (6), the court may, on the application of either the nominee purchaser or the reversioner, make such order under subsection (4) as it thinks fit.

(4) The court may under this subsection make an order—

(a) providing for the interests to be acquired by the nominee purchaser to be vested in him on the terms referred to in subsection (3);

(b) providing for those interests to be vested in him on those terms, but subject to such modifications as—

(i) may have been determined by a leasehold valuation tribunal, on the application of either the nominee purchaser or the reversioner, to be required by reason of any change in circumstances since the time when the terms were agreed or determined as mentioned in that subsection, and

(ii) are specified in the order; or

(c) providing for the initial notice to be deemed to have been withdrawn at the end of the appropriate period specified in subsection (6);

and Schedule 5 shall have effect in relation to any such order as is mentioned in paragraph (a) or (b) above.

(5) Any application for an order under subsection (4) must be made not later than the end of the period of two months beginning immediately after the end of the appropriate period specified in subsection (6).

(6) For the purposes of this section the appropriate period is—

(a) where all of the terms of acquisition have been agreed between the parties, the period of two months beginning with the date when those terms were finally so agreed;

(b) where all or any of those terms have been determined by a leasehold valuation tribunal under subsection (1)—

(i) the period of two months beginning with the date when the decision of the tribunal under that subsection becomes final, or

(ii) such other period as may have been fixed by the tribunal when making its determination.

(7) In this section "the parties" means the nominee purchaser and the reversioner and any relevant landlord who has given to those persons a notice for the purposes of paragraph 7(1)(a) of Schedule 1.

(8) In this Chapter "the terms of acquisition", in relation to a claim made under this Chapter, means the terms of the proposed acquisition by the nominee purchaser, whether relating to—

(a) the interests to be acquired,

(b) the extent of the property to which those interests relate or the rights to be granted over any property,

(c) the amounts payable as the purchase price for such interests,

(d) the apportionment of conditions or other matters in connection with the severance of any reversionary interest, or

(e) the provisions to be contained in any conveyance,

or otherwise, and includes any such terms in respect of any interest to be acquired in pursuance of section 1(4) or 21(4).

25 Applications where reversioner fails to give counter-notice or further counter-notice.

(1) Where the initial notice has been given in accordance with section 13 but—

(a) the reversioner has failed to give the nominee purchaser a counter-notice in accordance with section 21(1), or

(b) if required to give the nominee purchaser a further counter-notice by or by virtue of section 22(3) or section 23(5) or (6), the reversioner has failed to comply with that requirement,

the court may, on the application of the nominee purchaser, make an order determining the terms on which he is to acquire, in accordance with the proposals contained in the initial notice, such interests and rights as are specified in it under section 13(3).

(2) The terms determined by the court under subsection (1) shall, if Part II of Schedule 9 is applicable, include terms which provide for the leasing back, in accordance with section 36 and that Part of that Schedule, of flats or other units contained in the specified premises.

(3) The court shall not make any order on an application made by virtue of paragraph (a) of subsection (1) unless it is satisfied—

(a) that the participating tenants were on the relevant date entitled to exercise the right to collective enfranchisement in relation to the specified premises; and

(b) if applicable, that the requirements of Part II of Schedule 3 were complied with as respects the giving of copies of the initial notice.

(4) Any application for an order under subsection (1) must be made not later than the end of the period of six months beginning with the date by which the counter-notice or further counter-notice referred to in that subsection was to be given to the nominee purchaser.

(5) Where—

(a) the terms of acquisition have been determined by an order of the court under subsection (1), but

(b) a binding contract incorporating those terms has not been entered into by the end of the appropriate period specified in subsection (8),

the court may, on the application of either the nominee purchaser or the reversioner, make such order under subsection (6) as it thinks fit.

(6) The court may under this subsection make an order—

(a) providing for the interests to be acquired by the nominee purchaser to be vested in him on the terms referred to in subsection (5);

(b) providing for those interests to be vested in him on those terms, but subject to such modifications as—

(i) may have been determined by a leasehold valuation tribunal, on the application of either the nominee purchaser or the reversioner, to be required by reason of any change in circumstances since the time when the terms were determined as mentioned in that subsection, and

(ii) are specified in the order; or

(c) providing for the initial notice to be deemed to have been withdrawn at the end of the appropriate period specified in subsection (8);

and Schedule 5 shall have effect in relation to any such order as is mentioned in paragraph (a) or (b) above.

(7) Any application for an order under subsection (6) must be made not later than the end of the period of two months beginning immediately after the end of the appropriate period specified in subsection (8).

(8) For the purposes of this section the appropriate period is—

(a) the period of two months beginning with the date when the order of the court under subsection (1) becomes final, or

(b) such other period as may have been fixed by the court when making that order.

26 Applications where relevant landlord cannot be found.

(1) Where not less than two-thirds of the qualifying tenants of flats contained in any premises to which this Chapter applies desire to make a claim to exercise the right to collective enfranchisement in relation to those premises but—

(a) (in a case to which section 9(1) applies) the person who owns the freehold of the premises cannot be found or his identity cannot be ascertained, or

(b) (in a case to which section 9(2) **[**[F53]or (2A)**]** applies) each of the relevant landlords is someone who cannot be found or whose identity cannot be ascertained,

the court may, on the application of the qualifying tenants in question, make a vesting order under this subsection—

(i) with respect to any interests of that person (whether in those premises or in any other property) which are liable to acquisition on behalf of those tenants by virtue of section 1(1) or (2)(a) or section 2(1), or

(ii) with respect to any interests of those landlords which are so liable to acquisition by virtue of any of those provisions,

as the case may be.

(2) Where in a case to which section 9(2) applies—

(a) not less than two-thirds of the qualifying tenants of flats contained in any premises to which this Chapter applies desire to make a claim to exercise the right to collective enfranchisement in relation to those premises, and

(b) paragraph (b) of subsection (1) does not apply, but

(c) a notice of that claim or (as the case may be) a copy of such a notice cannot be given in accordance with section 13 or Part II of Schedule 3 to any person to whom it would otherwise be required to be so given because he cannot be found or his identity cannot be ascertained,

the court may, on the application of the qualifying tenants in question, make an order dispensing with the need to give such a notice or (as the case may be) a copy of such a notice to that person.

(3) If **[**F54, in a case to which section 9(2) applies,**]** that person is the person who owns the freehold of the premises, then on the application of those tenants, the court may, in connection with an order under subsection (2), make an order appointing any other relevant landlord to be the reversioner in respect of the premises in place of that person; and if it does so references in this Chapter to the reversioner shall apply accordingly.

[F55(3A) Where in a case to which section 9(2A) applies—

(a) not less than two-thirds of the qualifying tenants of flats contained in any premises to which this Chapter applies desire to make a claim to exercise the right to collective enfranchisement in relation to those premises, and

(b) paragraph (b) of subsection (1) does not apply, but

(c) a copy of a notice of that claim cannot be given in accordance with Part II of Schedule 3 to any person to whom it would otherwise be required to be so given because he cannot be found or his identity cannot be ascertained,

the court may, on the application of the qualifying tenants in question, make an order dispensing with the need to give a copy of such a notice to that person.**]**

(4) The court shall not make an order on any application under subsection (1) **[**F56, (2) or (3A)**]** unless it is satisfied—

(a) that on the date of the making of the application the premises to which the application relates were premises to which this Chapter applies; and

(b) that on that date the applicants would not have been precluded by any provision of this Chapter from giving a valid notice under section 13 with respect to those premises.

(5) Before making any such order the court may require the applicants to take such further steps by way of advertisement or otherwise as the court thinks proper for the purpose of tracing the person or persons in question; and if, after an application is made for a vesting order under subsection (1) and before any interest is vested in pursuance of the application, the person or (as the case may be) any of the persons referred to in paragraph (a) or (b) of that subsection is traced, then no further proceedings shall be taken with a view to any interest being so vested, but (subject to subsection (6))—

(a) the rights and obligations of all parties shall be determined as if the applicants had, at the date of the application, duly given notice under section 13 of their claim to exercise the right to collective enfranchisement in relation to the premises to which the application relates; and

(b) the 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 Chapter or of regulations made under this Part.

(6) An application for a vesting order under subsection (1) may be withdrawn at any time before execution of a conveyance under section 27(3) and, after it is withdrawn, subsection (5)(a) above shall not apply; but where any step is taken (whether by the applicants or otherwise) for the purpose of giving effect to subsection (5)(a) in the case of any application, the application shall not afterwards be withdrawn except—

(a) with the consent of every person who is the owner of any interest the vesting of which is sought by the applicants, or

(b) by leave of the court,

and the 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 applicants in consequence of the tracing of any such person.

(7) Where an order has been made under subsection (2) **[**[F57]or (3A)**]**dispensing with the need to give a notice under section 13, or a copy of such a notice, to a particular person with respect to any particular premises, then if—

(a) a notice is subsequently given under that section with respect to those premises, and

(b) in reliance on the order, the notice or a copy of the notice is not to be given to that person,

the notice must contain a statement of the effect of the order.

(8) Where a notice under section 13 contains such a statement in accordance with subsection (7) above, then in determining for the purposes of any provision of this Chapter whether the requirements of section 13 or Part II of Schedule 3 have been complied with in relation to the notice, those requirements shall be deemed to have been complied with so far as relating to the giving of the notice or a copy of it to the person referred to in subsection (7) above.

(9) Rules of court shall make provision—

(a) for requiring notice of any application under subsection (3) to be served by the persons making the application on any person who the applicants know or have reason to believe is a relevant landlord; and

(b) for enabling persons served with any such notice to be joined as parties to the proceedings.

Textual Amendments

F53 Words in s. 26(1)(b) inserted (1.10.1996) by 1996 c. 52, s. 107, **Sch. 10 para. 9(2)**; S.I. 1996/2212, **art. 2(2)** (with saving in Sch.)

F54 Words in s. 26(3) inserted (1.10.1996) by 1996 c. 52, s. 107, **Sch. 10 para. 9(3)**; S.I. 1996/2212, **art. 2(2)** (with savings in Sch.)

F55 S. 26(3A) inserted (1.10.1996) by 1996 c. 52, s. 107, **Sch. 10 para. 9(4)**; S.I. 1996/2212, **art. 2(2)**, (with savings in Sch.)

F56 Words in s. 26(4) substituted (1.10.1996) by 1996 c. 52, s. 107, **Sch. 10 para. 9(5)**; S.I. 1996/2212, **art. 2(2)** (with savings in Sch.)

F57 Words in s. 27(7) inserted (1.10.1996) by 1996 c. 52, s. 107, **Sch. 10 para. 9(6)**; S.I. 1996/2212, **art. 2(2)** (with savings in Sch.)

Commencement Information

I1 S. 26 wholly in force; s. 26 not in force at Royal Assent see s. 188(2); s. 26(9) in force for certain purposes at 2.9.1993 by S.I. 1993/2134, **art. 3**; s. 26 in force at 1.11.1993 in so far as it was not in force, by S.I. 1993/2134, **art. 5(a)**

27 Supplementary provisions relating to vesting orders under section 26(1).

(1) A vesting order under section 26(1) is an order providing for the vesting of any such interests as are referred to in paragraph (i) or (ii) of that provision—

(a) in such person or persons as may be appointed for the purpose by the applicants for the order, and

(b) on such terms as may be determined by a leasehold valuation tribunal to be appropriate with a view to the interests being vested in that person or those persons in like manner (so far as the circumstances permit) as if the applicants had, at the date of their application, given notice under section 13 of their claim to exercise the right to collective enfranchisement in relation to the premises with respect to which the order is made.

(2) If a leasehold valuation tribunal so determines in the case of a vesting order under section 26(1), the order shall have effect in relation to interests which are less extensive than those specified in the application on which the order was made.

(3) Where any interests are to be vested in any person or persons by virtue of a vesting order under section 26(1), then on his or their paying into court the appropriate sum in respect of each of those interests there shall be executed by such person as the court may designate a conveyance which—

(a) is in a form approved by a leasehold valuation tribunal, and

(b) contains such provisions as may be so approved for the purpose of giving effect so far as possible to the requirements of section 34 and Schedule 7;

and that conveyance shall be effective to vest in the person or persons to whom the conveyance is made the interests expressed to be conveyed, subject to and in accordance with the terms of the conveyance.

(4) In connection with the determination by a leasehold valuation tribunal of any question as to the interests to be conveyed by any such conveyance, or as to the rights with or subject to which they are to be conveyed, it shall be assumed (unless the contrary is shown) that any person whose interests are to be conveyed ("the transferor") has no interest in property other than those interests and, for the purpose of excepting them from the conveyance, any minerals underlying the property in question.

(5) The appropriate sum which in accordance with subsection (3) is to be paid into court in respect of any interest is the aggregate of—

(a) such amount as may be determined by a leasehold valuation tribunal to be the price which would be payable in respect of that interest in accordance with Schedule 6 if the interest were being acquired in pursuance of such a notice as is mentioned in subsection (1)(b); and

(b) any amounts or estimated amounts determined by such a tribunal as being, at the time of execution of the conveyance, due to the transferor from any tenants of his of premises comprised in the premises in which that interest subsists (whether due under or in respect of their leases or under or in respect of agreements collateral thereto).

(6) Where any interest is vested in any person or persons in accordance with this section, the payment into court of the appropriate sum in respect of that interest shall be taken to have satisfied any claims against the applicants for the vesting order under section 26(1), their personal representatives or assigns in respect of the price payable under this Chapter for the acquisition of that interest.

(7) Where any interest is so vested in any person or persons, section 32(5) shall apply in relation to his or their acquisition of that interest as it applies in relation to the acquisition of any interest by a nominee purchaser.

Termination of acquisition procedures

28 Withdrawal from acquisition by participating tenants.

(1) At any time before a binding contract is entered into in pursuance of the initial notice, the participating tenants may withdraw that notice by the giving of a notice to that effect under this section ("a notice of withdrawal").

(2) A notice of withdrawal must be given—

(a) to the nominee purchaser;

(b) to the reversioner in respect of the specified premises; and

(c) to every other relevant landlord who is known or believed by the participating tenants to have given to the nominee purchaser a notice under paragraph 7(1) or (4) of Schedule 1;

and, if by virtue of paragraph (c) a notice of withdrawal falls to be given to any person falling within that paragraph, it shall state that he is a recipient of the notice.

(3) The nominee purchaser shall, on receiving a notice of withdrawal, give a copy of it to every relevant landlord who—

(a) has given to the nominee purchaser such a notice as is mentioned in subsection (2)(c); and

(b) is not stated in the notice of withdrawal to be a recipient of it.

(4) Where a notice of withdrawal is given by the participating tenants under subsection (1) —

(a) those persons, and

(b) (subject to subsection (5)) every other person who is not a participating tenant for the time being but has at any time been such a tenant,

shall be liable—

(i) to the reversioner, and

(ii) to every other relevant landlord,

for all relevant costs incurred by him in pursuance of the initial notice down to the time when the notice of withdrawal or a copy of it is given to him in accordance with subsection (2) or (3).

(5) A person falling within paragraph (b) of subsection (4) shall not be liable for any costs by virtue of that subsection if—

(a) the lease in respect of which he was a participating tenant has been assigned to another person; and

(b) that other person has become a participating tenant in accordance with section 14(4);

and in paragraph (a) above the reference to an assignment shall be construed in accordance with section 14(10).

(6) Where any liability for costs arises under subsection (4)—

(a) it shall be a joint and several liability of the persons concerned; and

(b) the nominee purchaser shall not be liable for any costs under section 33.

(7) In subsection (4) "relevant costs", in relation to the reversioner or any other relevant landlord, means costs for which the nominee purchaser would (apart from subsection (6)) be liable to that person under section 33.

29 Deemed withdrawal of initial notice.

(1) Where, in a case falling within paragraph (a) of subsection (1) of section 22—

(a) no application for an order under that subsection is made within the period specified in subsection (2) of that section, or

(b) such an application is so made but is subsequently withdrawn,

the initial notice shall be deemed to have been withdrawn—

(i) (if paragraph (a) above applies) at the end of that period, or

(ii) (if paragraph (b) above applies) on the date of the withdrawal of the application.

(2) Where—

(a) in a case to which subsection (1) of section 24 applies, no application under that subsection is made within the period specified in subsection (2) of that section, or

(b) in a case to which subsection (3) of that section applies, no application for an order under subsection (4) of that section is made within the period specified in subsection (5) of that section,

the initial notice shall be deemed to have been withdrawn at the end of the period referred to in paragraph (a) or (b) above (as the case may be).

(3) Where, in a case falling within paragraph (a) or (b) of subsection (1) of section 25, no application for an order under that subsection is made within the period specified in subsection (4) of that section, the initial notice shall be deemed to have been withdrawn at the end of that period.

(4) Where, in a case to which subsection (5) of section 25 applies, no application for an order under subsection (6) of that section is made within the period specified in subsection (7) of that section, the initial notice shall be deemed to have been withdrawn at the end of that period.

(5) The following provisions, namely—

(a) section 15(10),

(b) section 16(8),

(c) section 20(3),
(d) section 24(4)(c), and
(e) section 25(6)(c),

also make provision for a notice under section 13 to be deemed to have been withdrawn at a particular time.

(6) Where the initial notice is deemed to have been withdrawn at any time by virtue of any provision of this Chapter, subsections (4) and (5) of section 28 shall apply for the purposes of this section in like manner as they apply where a notice of withdrawal is given under that section, but as if the reference in subsection (4) of that section to the time when a notice or copy is given as there mentioned were a reference to the time when the initial notice is so deemed to have been withdrawn.

(7) Where the initial notice is deemed to have been withdrawn by virtue of section 15(10) or 16(8)—
(a) the liability for costs arising by virtue of subsection (6) above shall be a joint and several liability of the persons concerned; and
(b) the nominee purchaser shall not be liable for any costs under section 33.

(8) In the provisions applied by subsection (6), "relevant costs", in relation to the reversioner or any other relevant landlord, means costs for which the nominee purchaser is, or would (apart from subsection (7)) be, liable to that person under section 33.

30 Effect on initial notice or subsequent contract of institution of compulsory acquisition procedures.

(1) A notice given under section 13 shall be of no effect if on the relevant date—
(a) any acquiring authority has, with a view to the acquisition of the whole or part of the specified premises for any authorised purpose—
(i) served notice to treat on any relevant person, or
(ii) entered into a contract for the purchase of the interest of any such person in the premises or part of them, and
(b) the notice to treat or contract remains in force.

(2) In subsection (1) "relevant person", in relation to the specified premises, means—
(a) the person who owns the freehold of the premises; **[**[F58]or, where the freehold of the whole of the premises is not owned by the same person, any person who owns the freehold of part of them**]** or
(b) any other person who owns any leasehold interest in the premises which is specified in the initial notice under section 13(3)(c)(i).

(3) A notice given under section 13 shall not specify under subsection (3)(a)(ii) or (c)(i) of that section any property or leasehold interest in property if on the relevant date—
(a) any acquiring authority has, with a view to the acquisition of the whole or part of the property for any authorised purpose—
(i) served notice to treat on the person who owns the freehold of, or any such leasehold interest in, the property, or
(ii) entered into a contract for the purchase of the interest of any such person in the property or part of it, and
(b) the notice to treat or contract remains in force.

(4) A notice given under section 13 shall cease to have effect if, before a binding contract is entered into in pursuance of the notice, any acquiring authority serves, with a view to the acquisition of the whole or part of the specified premises for any authorised purpose, notice to treat as mentioned in subsection (1)(a).

(5) Where any such authority so serves notice to treat at any time after a binding contract is entered into in pursuance of the notice given under section 13 but before completion of the acquisition by the nominee purchaser under this Chapter, then (without prejudice to the general law as to the frustration of contracts) the parties to the contract shall be discharged from the further performance of the contract.

(6) Where subsection (4) or (5) applies in relation to the initial notice or any contract entered into in pursuance of it, then on the occasion of the compulsory acquisition in question the compensation payable in respect of any interest in the specified premises (whether or not the one to which the relevant notice to treat relates) shall be determined on the basis of the value of the interest—

(a) (if subsection (4) applies) subject to and with the benefit of the rights and obligations arising from the initial notice and affecting that interest; or

(b) (if subsection (5) applies) subject to and with the benefit of the rights and obligations arising from the contract and affecting that interest.

(7) In this section—

(a) "acquiring authority", in relation to the specified premises or any other property, means any person or body of persons who has or have been, or could be, authorised to acquire the whole or part of those premises or that property compulsorily for any purpose; and

(b) "authorised purpose", in relation to any acquiring authority, means any such purpose.

Textual Amendments

F58 Words in s. 30(2)(a) inserted (1.10.1996) by 1996 c. 52, s. 107, **Sch. 10 para.10**; S.I. 1996/2212, **art. 2(2)** (with savings in Sch.)

31 Effect on initial notice of designation for inheritance tax purposes and applications for designation.

(1) A notice given under section 13 shall be of no effect if on the relevant date the whole or any part of—

(a) the specified premises, or

(b) any property specified in the notice under section 13(3)(a)(ii),

is qualifying property.

(2) For the purposes of this section the whole or any part of the specified premises, or of any property specified as mentioned in subsection (1), is qualifying property if—

(a) it has been designated under section 31(1)(b), (c) or (d) of the [M14]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) 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 given under section 13 shall cease to have effect if, before a binding contract is entered into in pursuance of the notice, the whole or any part of—

(a) the specified premises, or

(b) any property specified in the notice under section 13(3)(a)(ii),

becomes qualifying property.

(5) Where a notice under section 13 ceases to have effect by virtue of subsection (4) above—

(a) the nominee purchaser shall not be liable for any costs under section 33; and

(b) the person who applied or is applying for designation or a direction shall be liable—

(i) to the qualifying tenants by whom the notice was given for all reasonable costs incurred by them in the preparation and giving of the notice; and

(ii) to the nominee purchaser for all reasonable costs incurred in pursuance of the notice by him or by any other person who has acted as the nominee purchaser.

(6) Where it is claimed that subsection (1) or (4) applies in relation to a notice under section 13, the person making the claim shall, at the time of making it, furnish the nominee purchaser 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 nominee purchaser in consequence of the failure.

(7) In subsection (2)—

(a) paragraphs (a) and (b) apply to designation under section 34(1)(a), (b) or (c) of the [M15]Finance Act 1975 or section 77(1)(b), (c) or (d) of the [M16]Finance Act 1976 as they apply to designation under section 31(1)(b), (c) or (d) of the [M17]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 [M18]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).

Marginal Citations

M14 1984 c. 51.
M15 1975 c. 7.
M16 1976 c. 40.
M17 1984 c. 51.
M18 1984 c. 51.

Determination of price and costs of enfranchisement

32 Determination of price.

(1) Schedule 6 to this Act (which relates to the determination of the price payable by the nominee purchaser in respect of each of the freehold and other interests to be acquired by him in pursuance of this Chapter) shall have effect.

(2) The lien of the owner of any such interest (as vendor) on the specified premises, or (as the case may be) on any other property, for the price payable shall extend—

(a) to any amounts which, at the time of the conveyance of that interest, are due to him from any tenants of his of premises comprised in the premises in which that interest subsists (whether due under or in respect of their leases or under or in respect of agreements collateral thereto); and

(b) to any amount payable to him by virtue of section 18(2); and

(c) to any costs payable to him by virtue of section 33.

(3) Subsection (2)(a) does not apply in relation to amounts due to the owner of any such interest from tenants of any premises which are to be comprised in the premises demised by a lease granted in accordance with section 36 and Schedule 9.

(4) In subsection (2) the reference to the specified premises or any other property includes a reference to a part of those premises or that property.

(5) Despite the fact that in accordance with Schedule 6 no payment or only a nominal payment is payable by the nominee purchaser in respect of the acquisition by him of any interest he shall nevertheless be deemed for all purposes to be a purchaser of that interest for a valuable consideration in money or money's worth.

33 Costs of enfranchisement.

(1) Where a notice is given under section 13, then (subject to the provisions of this section and sections 28(6), 29(7) and 31(5)) the nominee purchaser shall be liable, to the extent that they have been incurred in pursuance of the notice by the reversioner or by any other relevant landlord, for the reasonable costs of and incidental to any of the following matters, namely—

(a) any investigation reasonably undertaken—

(i) of the question whether any interest in the specified premises or other property is liable to acquisition in pursuance of the initial notice, or

(ii) of any other question arising out of that notice;

(b) deducing, evidencing and verifying the title to any such interest;

(c) making out and furnishing such abstracts and copies as the nominee purchaser may require;

(d) any valuation of any interest in the specified premises or other property;

(e) any conveyance of any such interest;

but 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.

(2) For the purposes of subsection (1) any costs incurred by the reversioner or any other relevant landlord in respect of professional services rendered by any person shall only be regarded as reasonable if and to the extent that costs in respect of such services might reasonably be expected to have been incurred by him if the circumstances had been such that he was personally liable for all such costs.

(3) Where by virtue of any provision of this Chapter the initial notice ceases to have effect at any time, then (subject to subsection (4)) the nominee purchaser's liability under this section for costs incurred by any person shall be a liability for costs incurred by him down to that time.

(4) The nominee purchaser shall not be liable for any costs under this section if the initial notice ceases to have effect by virtue of section 23(4) or 30(4).

(5) The nominee purchaser shall not be liable under this section for any costs which a party to any proceedings under this Chapter before a leasehold valuation tribunal incurs in connection with the proceedings.

(6) In this section references to the nominee purchaser include references to any person whose appointment has terminated in accordance with section 15(3) or 16(1); but this section shall have effect in relation to such a person subject to section 15(7).

(7) Where by virtue of this section, or of this section and section 29(6) taken together, two or more persons are liable for any costs, they shall be jointly and severally liable for them.

Completion of acquisition

34 Conveyance to nominee purchaser.

(1) Any conveyance executed for the purposes of this Chapter, being a conveyance to the nominee purchaser of the freehold of the specified premises **[**F59, of a part of those premises**]** or of any other property, shall grant to the nominee purchaser an estate in fee simple absolute in those premises **[**F59, that part of those premises**]** or that property, subject only to such incumbrances as may have been agreed or determined under this Chapter to be incumbrances subject to which that estate should be granted, having regard to the following provisions of this Chapter.

(2) Any such conveyance shall, where the nominee purchaser is to acquire any leasehold interest in the specified premises **[**F60, the part of the specified premises**]** or (as the case may be) in the other property to which the conveyance relates, provide for the disposal to the nominee purchaser of any such interest.

(3) Any conveyance executed for the purposes of this Chapter shall have effect under section 2(1) of the M19Law of Property Act 1925 (conveyances overreaching certain

equitable interests etc.) to overreach any incumbrance capable of being overreached under section 2(1)—

(a) as if, where the interest conveyed is settled land for the purposes of the [M20]Settled Land Act 1925, the conveyance were made under the powers of that Act, and

(b) 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 section 35 below or Schedule 8 to this Act to be so paid or applied.

(4) For the purposes of this section "incumbrances" includes—

(a) rentcharges, and

(b) (subject to subsection (5)) personal liabilities attaching in respect of the ownership of land or an interest in land though not charged on that land or interest.

(5) 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 the purposes of this section; but any conveyance executed for the purposes of this Chapter shall be made subject to any such burdens.

(6) A conveyance executed for the purposes of this Chapter 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—

(a) rentcharges redeemable under sections 8 to 10 of the [M21]Rentcharges Act 1977, and

(b) 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 subsections (7) and (8) below.

(7) Where any land is to be conveyed to the nominee purchaser by a conveyance executed for the purposes of this Chapter, subsection (6) shall not preclude the person who owns the freehold interest in the land from releasing, or procuring the release of, the land from any rentcharge.

(8) The conveyance of any such land ("the relevant land") may, with the agreement of the nominee purchaser (which shall not be unreasonably withheld), provide in accordance with section 190(1) of the [M22]Law of Property Act 1925 (charging of rentcharges on land without rent owner's consent) that a rentcharge—

(a) shall be charged exclusively on other land affected by it in exoneration of the relevant land, or

(b) shall be apportioned between other land affected by it and the relevant land.

(9) Except to the extent that any departure is agreed to by the nominee purchaser and the person whose interest is to be conveyed, any conveyance executed for the purposes of this Chapter shall—

(a) as respects the conveyance of any freehold interest, conform with the provisions of Schedule 7, and

(b) as respects the conveyance of any leasehold interest, conform with the provisions of paragraph 2 of that Schedule (any reference in that paragraph to the freeholder being read as a reference to the person whose leasehold interest is to be conveyed [F61, and with the reference to the covenants for title implied under Part I of the Law of Property (Miscellaneous Provisions) Act 1994 being

read as excluding the covenant in section 4(1)(b) of that Act (compliance with terms of lease)**]**).

(10) Any such conveyance shall in addition contain a statement that it is a conveyance executed for the purposes of this Chapter; and any such statement shall comply with such requirements as may be prescribed by rules made in pursuance of section 144 of the [M23]Land Registration Act 1925 (power to make general rules).

Textual Amendments

F59 Words in s. 34(1) inserted (1.10.1996) by 1996 c. 52, s. 107, **Sch. 10 para. 11(2)**; S.I. 1996/2212, **art. 2(2)** (with savings in Sch.)

F60 Words in s. 34(2) inserted (1.10.1996) by 1996 c. 52, s. 107, **Sch. 10 para. 11(3)**; S.I. 1996/2212, **art. 2(2)** (with savings in Sch.)

F61 Words in s. 34(9) inserted (1.7.1995) by 1994 c. 36, s. 21(1), **Sch. 1 para. 12(1)**; S.I. 1995/1317, **art. 2**

Marginal Citations

M19 1925 c. 20.

M20 1925 c. 18.

M21 1977 c. 30.

M22 1925 c. 20.

M23 1925 c. 21.

35 Discharge of existing mortgages on transfer to nominee purchaser.

(1) Subject to the provisions of Schedule 8, where any interest is acquired by the nominee purchaser in pursuance of this Chapter, the conveyance by virtue of which it is so acquired shall, as regards any mortgage to which this section applies, be effective by virtue of this section—

(a) to discharge the interest from the mortgage, and from the operation of any order made by a court for the enforcement of the mortgage, and

(b) to extinguish any term of years created for the purposes of the mortgage,

and shall do so without the persons entitled to or interested in the mortgage or in any such order or term of years becoming parties to or executing the conveyance.

(2) Subject to subsections (3) and (4), this section applies to any mortgage of the interest so acquired (however created or arising) which—

(a) is a mortgage to secure the payment of money or the performance of any other obligation by the person from whom the interest is so acquired or any other person; and

(b) is not a mortgage which would be overreached apart from this section.

(3) This section shall not apply to any such mortgage if it has been agreed between the nominee purchaser and the reversioner or (as the case may be) any other relevant landlord that the interest in question should be acquired subject to the mortgage.

(4) In this section and Schedule 8 "mortgage" includes a charge or lien; but neither this section nor that Schedule applies to a rentcharge.

36 Nominee purchaser required to grant leases back to former freeholder in certain circumstances.

(1) In connection with the acquisition by him of **[**F62a freehold interest in**]** the specified premises, the nominee purchaser shall grant to the person from whom the **[**F62interest**]** is acquired such leases of flats or other units contained in those premises as are required to be so granted by virtue of Part II or III of Schedule 9.

(2) Any such lease shall be granted so as to take effect immediately after the acquisition by the nominee purchaser of the freehold **[**F63interest concerned**]**.

(3) Where any flat or other unit demised under any such lease ("the relevant lease") is at the time of that acquisition subject to any existing lease, the relevant lease shall take effect as a lease of the freehold reversion in respect of the flat or other unit.

(4) Part IV of Schedule 9 has effect with respect to the terms of a lease granted in pursuance of Part II or III of that Schedule.

Textual Amendments

F62 Words in s. 36(1) substituted (1.10.1996) by 1996 c. 52, s. 107, **Sch. 10 para. 12(2)**; S.I. 1996/2212, **art. 2(2)** (with saving in Sch.)

F63 Words in s. 36(2) substituted (1.10.1996) by 1996 c. 52, s. 107, **Sch. 10 para. 12(3)**; S.I. 1996/2212, **art. 2(2)** (with saving in Sch.)

37 Acquisition of interests from local authorities etc.

Schedule 10 to this Act (which makes provision with respect to the acquisition of interests from local authorities etc. in pursuance of this Chapter) shall have effect.

[**F64 Landlord's right to compensation in relation to ineffective claims**]

Textual Amendments

F64 Ss. 37A, 37B and crossheading inserted (1.10.1996) by 1996 c. 52, s. 116, **Sch. 11 para. 2(1)**; S.I. 1996/2212, **art. 2**

[F65**37A Compensation for postponement of termination in connection with ineffective claims.

(1) This section applies where a claim to exercise the right to collective enfranchisement in respect of any premises is made on or after 15th January 1999 by tenants of flats contained in the premises and the claim is not effective.

(2) A person who is a participating tenant immediately before the claim ceases to have effect shall be liable to pay compensation if—

(a) the claim was not made at least two years before the term date of the lease by virtue of which he is a qualifying tenant ("the existing lease"), and

(b) any of the conditions mentioned in subsection (3) is met.

(3) The conditions referred to above are—

(a) that the making of the claim caused a notice served under paragraph 4(1) of Schedule 10 to the Local Government and Housing Act 1989 in respect of the existing lease to cease to 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) that 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 in respect of the existing lease (but did not cause a notice served under that provision in respect of that lease 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 existing lease, and

(c) that the existing lease has been continued under paragraph 6(1) of Schedule 3 by virtue of the claim.

(4) Compensation under subsection (2) 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.

(5) The amount which a tenant is liable to pay under subsection (2) shall be equal to the difference between—

(a) the rent for the appropriate period under the existing lease, and

(b) the rent which might reasonably be expected to be payable for that period were the property to which the existing lease 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 lease.

(6) For the purposes of subsections (4) and (5), the appropriate period is—

(a) in a case falling within paragraph (a) of subsection (3), 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 [M24]Local Government and Housing Act 1989 in respect of the existing lease served immediately after the date on which the claim ceases to have effect, or, if the existing lease is terminated before then, with the date of its termination;

(b) in a case falling within paragraph (b) of subsection (3), 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 lease, and

(ii) ending six months after the date on which the claim ceases to have effect, or, if the existing lease is terminated before then, with the date of its termination; and

(c) in a case falling within paragraph (c) of subsection (3), the period for which the existing lease is continued under paragraph 6(1) of Schedule 3.

(7) In the case of a person who becomes a participating tenant by virtue of an election under section 14(3), the references in subsections (3)(a) and (b) and (6)(b)(i) to the making of the claim shall be construed as references to the making of the election.

(8) For the purposes of this section—

(a) references to a claim to exercise the right to collective enfranchisement shall be taken as references to a notice given, or purporting to be given (whether by persons who are qualifying tenants or not), under section 13,

(b) references to the date on which a claim ceases to have effect shall, in the case of a claim made by a notice which is not a valid notice under section 13, be taken as references to the date on which the notice is set aside by the court or is withdrawn or would, if valid, cease to have effect or be deemed to have been withdrawn, 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, and

(c) a claim to exercise the right to collective enfranchisement is not effective if it ceases to have effect for any reason other than—

(i) the application of section 23(4), 30(4) or 31(4),

(ii) the entry into a binding contract for the acquisition of the freehold and other interests falling to be acquired in pursuance of the claim, or

(iii) the making of an order under section 24(4)(a) or (b) or 25(6)(a) or (b) which provides for the vesting of those interests.**]**

Textual Amendments

F65 Ss. 37A, 37B and crossheading inserted (1.10.1996) by 1996 c. 52, s. 116, **Sch. 11 para. 2(1)**; S.I. 1996/2212, **art. 2**

Marginal Citations

M24 1989 c. 42.

[F66 37B Modification of section 37A where change in immediate reversion.

(1) Where a tenant's liability to pay compensation under section 37A relates to a period during which there has been a change in the interest immediately expectant on the determination of his lease, that section shall have effect with the following modifications.

(2) For subsections (4) and (5) there shall be substituted—

(“) Compensation under subsection (2) 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 lease.

(5) Compensation under subsection (2) above shall—

(a) in the case of the interest which is immediately expectant on the determination of the existing lease 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 lease, be the right of the person in whom the interest was vested immediately before it ceased to be so expectant.

(5A) 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 lease for the part of the appropriate period during which the interest was immediately expectant on the determination of that lease, 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 lease relates let for a term 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 lease."

(3) In subsection (6), for "(4) and (5)" there shall be substituted "(4) to (5A)".**]**

Textual Amendments

F66 Ss. 37A, 37B and crossheading inserted (1.10.1996) by 1996 c. 52, s. 116, **Sch. 11 para. 2(1)**; S.I. 1996/2212, **art. 2**

Supplemental

38 Interpretation of Chapter I.

(1) In this Chapter (unless the context otherwise requires)—

"conveyance" includes assignment, transfer and surrender, and related expressions shall be construed accordingly;

"the initial notice" means the notice given under section 13;

[[F67]"introductory tenancy" has the same meaning as in Chapter 1 of Part V of the Housing Act 1996,**]**

"the nominee purchaser" shall be construed in accordance with section 15;

"the participating tenants" shall be construed in accordance with section 14;

"premises with a resident landlord" shall be construed in accordance with section 10;

"public sector landlord" means any of the persons listed in section 171(2) of the [M25]Housing Act 1985;

"qualifying tenant" shall be construed in accordance with section 5;

"the relevant date" has the meaning given by section 1(8);

"relevant landlord" and "the reversioner" shall be construed in accordance with section 9;

"the right to collective enfranchisement" means the right specified in section 1(1);

"secure tenancy" has the meaning given by section 79 of the Housing Act 1985;

"the specified premises" shall be construed in accordance with section 13(12);

"the terms of acquisition" has the meaning given by section 24(8);

"unit" means—

(a) a flat;

(b) any other separate set of premises which is constructed or adapted for use for the purposes of a dwelling; or

(c) a separate set of premises let, or intended for letting, on a business lease.

(2) Any reference in this Chapter (however expressed) to the acquisition or proposed acquisition by the nominee purchaser is a reference to the acquisition or proposed acquisition by the nominee purchaser, on behalf of the participating tenants, of such freehold and other interests as fall to be so acquired under a contract entered into in pursuance of the initial notice.

(3) Any reference in this Chapter to the interest of a relevant landlord in the specified premises is a reference to the interest in those premises by virtue of which he is, in accordance with section 9(2)(b) **[**F68or (2A)(b)**]**, a relevant landlord.

(4) Any reference in this Chapter to agreement in relation to all or any of the terms of acquisition is a reference to agreement subject to contract.

Textual Amendments

F67 Definition in s. 38(1) inserted (12.2.1997) by S.I. 1997/74, art. 2, **Sch. para. 9(b)**

F68 Words in s. 38(3) inserted (1.10.1996) by 1996 c. 52, s. 107, **Sch. 10 para. 13**; S.I. 1996/2212, **art. 2(2)** (with savings in Sch.)

Marginal Citations

M25 1985 c. 68.

CHAPTER II

INDIVIDUAL RIGHT OF TENANT OF FLAT TO ACQUIRE NEW LEASE

Preliminary

39 Right of qualifying tenant of flat to acquire new lease.

(1) This Chapter has effect for the purpose of conferring on a tenant of a flat, in the circumstances mentioned in subsection (2), the right, exercisable subject to and in accordance with this Chapter, to acquire a new lease of the flat on payment of a premium determined in accordance with this Chapter.

(2) Those circumstances are that on the relevant date for the purposes of this Chapter—

(a) the tenant is a qualifying tenant of the flat; and

[F69(b) the condition specified in subsection (2A) or, as the case may be, (2B) is satisfied.

(2A) Where the lease by virtue of which the tenant is a qualifying tenant is vested in trustees (other than a sole tenant for life within the meaning of the M26Settled Land Act 1925), the condition is that an individual having an interest under the trust (whether or not also a trustee) has occupied the flat as his only or principal home—

(a) for the last three years, or

(b) for periods amounting to three years in the last ten years,

whether or not he has used it also for other purposes.

(2B) Where the lease by virtue of which the tenant is a qualifying tenant is not vested as mentioned in subsection (2A), the condition is that the tenant has occupied the flat as his only or principal home—

(a) for the last three years, or

(b) for periods amounting to three years in the last ten years,

whether or not he has used it also for other purposes.**]**

(3) The following provisions, namely—

(a) section 5 (with the omission of subsections (5) and (6)),

(b) section 7, [F70]. . .

(c) section 8 **[**[F71], and

(d) section 8A,**]**

shall apply for the purposes of this Chapter as they apply for the purposes of Chapter I; and references in this Chapter to a qualifying tenant of a flat shall accordingly be construed by reference to those provisions.

(4) For the purposes of this Chapter a person can be (or be among those constituting) the qualifying tenant of each of two or more flats at the same time, whether he is tenant of those flats under one lease or under two or more separate leases.

[[F72](4A) For the purposes of subsection (2A)—

(a) any reference to the flat includes a reference to part of it; and

(b) it is immaterial whether at any particular time the individual's occupation was in right of the lease by virtue of which the trustees are a qualifying tenant or in right of some other lease or otherwise.**]**

(5) For the purposes of subsection **[**[F73](2B)**]** above—

(a) any reference to the tenant's flat includes a reference to part of it; and

(b) it is immaterial whether at any particular time the tenant's occupation was in right of the lease by virtue of which he is a qualifying tenant or in right of some other lease or otherwise;

but any occupation by a company or other artificial person, or (where the tenant is a corporation sole) by the corporator, shall not be regarded as occupation for the purposes of that provision.

[F74](6) . . . . . .

(7) The right conferred by this Chapter on a tenant to acquire a new lease shall not extend to underlying minerals comprised in his existing lease if—

(a) the landlord requires the minerals to be excepted, and

(b) proper provision is made for the support of the premises demised by that existing lease as they are enjoyed on the relevant date.

(8) In this Chapter "the relevant date", in relation to a claim by a tenant under this Chapter, means the date on which notice of the claim is given to the landlord under section 42.

Textual Amendments

F69 S. 39(2)(b)(2A)(2B) substituted for s. 39(2)(b) (1.10.1996) by 1996 c. 52, **s. 112(2)**; S.I. 1996/2212, **art. 2(2)** (with savings in art. 2(2), Sch. para. 4)

F70 Word in s. 39(3)(b) repealed (1.4.1997) by 1996 c. 52, s. 227, **Sch. 19 Pt.V**; S.I. 1997/618, **art. 2(1)**

F71 Words in s. 39(3) inserted (1.4.1997) by 1996 c. 52, s. 106, **Sch. 9 para. 4(2)**; S.I. 1997/618, **art. 2(1)** (with savings in art. 2, Sch. para. 2)

F72 S. 39(4A) inserted (1.10.1996) by 1996 c. 52, **s. 112(3)**; S.I. 1996/2212, **art. 2(2)** (with savings in art. 2(2), Sch. para. 4)

F73 Word in s. 39(5) substituted (1.10.1996) by 1996 c. 52, **s. 112(4)**; S.I. 1996/2212, **art. 2(2)** (with savings in art. 2(2), Sch. para. 4)

F74 S. 39(6) repealed (1.10.1996) by 1996 c. 52, s. 227, **Sch. 19 Pt. V**; S.I. 1996/2212, **art. 2(2)** (with savings in art. 2(2), Sch. para. 4)

Marginal Citations

M26 1925 c. 18.

40 The landlord for the purposes of this Chapter.

(1) In this Chapter "the landlord", in relation to the lease held by a qualifying tenant of a flat, means the person who is the owner of that interest in the flat which for the time being fulfils the following conditions, namely—

(a) it is an interest in reversion expectant (whether immediately or not) on the termination of the tenant's lease, and

(b) it is either a freehold interest or a leasehold interest whose duration is such as to enable that person to grant a new lease of that flat in accordance with this Chapter,

and is not itself expectant (whether immediately or not) on an interest which fulfils those conditions.

(2) Where in accordance with subsection (1) the immediate landlord under the lease of a qualifying tenant of a flat is not the landlord in relation to that lease for the purposes of this Chapter, the person who for those purposes is the landlord in relation to it shall conduct on behalf of all the other landlords all proceedings arising out of any notice given by the tenant with respect to the flat under section 42 (whether the proceedings are for resisting or giving effect to the claim in question).

(3) Subsection (2) has effect subject to the provisions of Schedule 11 to this Act (which makes provision in relation to the operation of this Chapter in cases to which that subsection applies).

(4) In this section and that Schedule—

(a) "the tenant" means any such qualifying tenant as is referred to in subsection (2) and "the tenant's lease" means the lease by virtue of which he is a qualifying tenant;

(b) "the competent landlord" means the person who, in relation to the tenant's lease, is the landlord (as defined by subsection (1)) for the purposes of this Chapter;

(c) "other landlord" means any person (other than the tenant or a trustee for him) in whom there is vested a concurrent tenancy intermediate between the interest of the competent landlord and the tenant's lease.

(5) Schedule 2 (which makes provision with respect to certain special categories of landlords) has effect for the purposes of this Chapter.

Preliminary inquiries by qualifying tenant

41 Right of qualifying tenant to obtain information about superior interests etc.

(1) A qualifying tenant of a flat may give—

(a) to his immediate landlord, or

(b) to any person receiving rent on behalf of his immediate landlord,

a notice requiring the recipient to state whether the immediate landlord is the owner of the freehold interest in the flat and, if not, to give the tenant such information as is mentioned in subsection (2) (so far as known to the recipient).

(2) That information is—

(a) the name and address of the person who owns the freehold interest in the flat;

(b) the duration of the leasehold interest in the flat of the tenant's immediate landlord and the extent of the premises in which it subsists; and

(c) the name and address of every person who has a leasehold interest in the flat which is superior to that of the tenant's immediate landlord, the duration of any such interest and the extent of the premises in which it subsists.

(3) If the immediate landlord of any such qualifying tenant is not the owner of the freehold interest in the flat, the tenant may also—

(a) give to the person who is the owner of that interest a notice requiring him to give the tenant such information as is mentioned in paragraph (c) of subsection (2) (so far as known to that person);

(b) give to any person falling within that paragraph a notice requiring him to give the tenant—

(i) particulars of the duration of his leasehold interest in the flat and the extent of the premises in which it subsists, and

(ii) (so far as known to him) such information as is mentioned in paragraph (a) of that subsection and, as regards any other person falling within paragraph (c) of that subsection, such information as is mentioned in that paragraph.

(4) Any notice given by a qualifying tenant under this section shall, in addition to any other requirement imposed in accordance with subsections (1) to (3), require the recipient to state—

(a) whether he has received in respect of any premises containing the tenant's flat—

(i) a notice under section 13 in the case of which the relevant claim under Chapter I is still current, or

(ii) a copy of such a notice; and

(b) if so, the date on which the notice under section 13 was given and the name and address of the nominee purchaser for the time being appointed for the purposes of section 15 in relation to that claim.

(5) For the purposes of subsection (4)—

(a) "the relevant claim under Chapter I", in relation to a notice under section 13, means the claim in respect of which that notice is given; and

(b) any such claim is current if—

(i) that notice continues in force in accordance with section 13(11), or

(ii) a binding contract entered into in pursuance of that notice remains in force, or

(iii) where an order has been made under section 24(4)(a) or (b) or 25(6)(a) or (b) with respect to any such premises as are referred to in subsection (4)(a) above, any interests which by virtue of the order fall to be vested in the nominee purchaser for the purposes of Chapter I have yet to be so vested.

(6) Any person who is required to give any information by virtue of a notice under this section shall give that information to the qualifying tenant within the period of 28 days beginning with the date of the giving of the notice.

The tenant's notice

42 Notice by qualifying tenant of claim to exercise right.

(1) A claim by a qualifying tenant of a flat to exercise the right to acquire a new lease of the flat is made by the giving of notice of the claim under this section.

(2) A notice given by a tenant under this section ("the tenant's notice") must be given—

(a) to the landlord, and

(b) to any third party to the tenant's lease.

(3) The tenant's notice must—

(a) state the full name of the tenant and the address of the flat in respect of which he claims a new lease under this Chapter;

(b) contain the following particulars, namely—

(i) sufficient particulars of that flat to identify the property to which the claim extends,

(ii) such particulars of the tenant's lease as are sufficient to identify it, including the date on which the lease was entered into, the term for which it was granted and the date of the commencement of the term,

(iii) such further particulars as are necessary to show that the tenant's lease is, in accordance with section 8 (as that section applies in accordance with section 39(3)), a lease at a low rent **[**[F75]or, in accordance with section 8A (as that section so applies), a lease for a particularly long term**]**, and

(iv) particulars of the period or periods falling within the preceding ten years for which the tenant has occupied the whole or part of the flat as his only or principal home;

(c) specify the premium which the tenant proposes to pay in respect of the grant of a new lease under this Chapter and, where any other amount will be payable by him in accordance with any provision of Schedule 13, the amount which he proposes to pay in accordance with that provision;

(d) specify the terms which the tenant proposes should be contained in any such lease;

(e) state the name of the person (if any) appointed by the tenant to act for him in connection with his claim, and an address in England and Wales at which notices may be given to any such person under this Chapter; and

(f) specify the date by which the landlord must respond to the notice by giving a counter-notice under section 45.

[F76(4) If the tenant's lease is vested as mentioned in section 39(2A), the reference to the tenant in subsection (3)(b)(iv) shall be read as a reference to any individual with respect to whom it is claimed the condition in section 39(2A) is satisfied.**]**

(5) The date specified in the tenant's notice in pursuance of subsection (3)(f) must be a date falling not less than two months after the date of the giving of the notice.

(6) Where a notice under this section has been given with respect to any flat, no subsequent notice may be given under this section with respect to the flat so long as the earlier notice continues in force.

(7) Where a notice under this section has been given with respect to a flat and—

(a) that notice has been withdrawn, or is deemed to have been withdrawn, under or by virtue of any provision of this Chapter, or

(b) in response to that notice, an order has been applied for and obtained under section 47(1),

no subsequent notice may be given under this section with respect to the flat within the period of twelve months beginning with the date of the withdrawal or deemed withdrawal of the earlier notice or with the time when the order under section 47(1) becomes final (as the case may be).

(8) Where a notice is given in accordance with this section, then for the purposes of this Chapter the notice continues in force as from the relevant date—

(a) until a new lease is granted in pursuance of the notice;

(b) if the notice is withdrawn, or is deemed to have been withdrawn, under or by virtue of any provision of this Chapter, until the date of the withdrawal or deemed withdrawal; or

(c) until such other time as the notice ceases to have effect by virtue of any provision of this Chapter;

but this subsection has effect subject to section 54.

(9) Schedule 12 (which contains restrictions on terminating a tenant's lease where he has given a notice under this section and makes other provision in connection with the giving of notices under this section) shall have effect.

Textual Amendments

F75 Words in s. 42(3) inserted (1.4.1997) in para. (b)(iii), at the end, by 1996 c. 52, s. 106, **Sch. 9 para. 4(3)**; S.I. 1997/618, **art. 2(1)**

F76 S. 42(4) substituted (1.10.1996) by 1996 c. 52, **s. 112(5)**; S.I. 1996/2212, **art. 2(2)** (with savings in art. 2(2), Sch. para. 4)

43 General provisions as respects effect of tenant's notice.

(1) Where a notice has been given under section 42 with respect to any flat, the rights and obligations of the landlord and the tenant arising from the notice shall enure for the

benefit of and be enforceable against them, their personal representatives and assigns to the like extent (but no further) as rights and obligations arising under a contract for leasing freely entered into between the landlord and the tenant.

(2) Accordingly, in relation to matters arising out of any such notice, references in this Chapter to the landlord and the tenant shall, in so far as the context permits, include their respective personal representatives and assigns.

(3) Notwithstanding anything in subsection (1), the rights and obligations of the tenant shall be assignable with, but shall not be capable of subsisting apart from, the lease of the entire flat; and, if the tenant's lease is assigned without the benefit of the notice, the notice shall accordingly be deemed to have been withdrawn by the tenant as at the date of the assignment.

(4) In the event of any default by the landlord or the tenant in carrying out the obligations arising from the tenant's notice, the other of them shall have the like rights and remedies as in the case of a contract freely entered into.

(5) In a case to which section 40(2) applies, the rights and obligations of the landlord arising out of the tenant's notice shall, so far as their interests are affected, be rights and obligations respectively of the competent landlord and of each of the other landlords, and references to the landlord in subsections (1) and (2) above shall apply accordingly.

(6) In subsection (5) "competent landlord" and "other landlord" have the meaning given by section 40(4); and subsection (5) has effect without prejudice to the operation of section 40(2) or Schedule 11.

Procedure following giving of tenant's notice

44 Access by landlords for valuation purposes.

(1) Once the tenant's notice or a copy of it has been given in accordance with section 42 or Part I of Schedule 11—

(a) to the landlord for the purposes of this Chapter, or

(b) to any other landlord (as defined by section 40(4)),

that landlord and any person authorised to act on his behalf shall have a right of access to the flat to which the notice relates for the purpose of enabling that landlord to obtain, in connection with the notice, a valuation of his interest in the flat.

(2) That right shall be exercisable at any reasonable time and on giving not less than 3 days' notice to the tenant.

45 Landlord's counter-notice.

(1) The landlord shall give a counter-notice under this section to the tenant by the date specified in the tenant's notice in pursuance of section 42(3)(f).

(2) The counter-notice must comply with one of the following requirements—

(a) state that the landlord admits that the tenant had on the relevant date the right to acquire a new lease of his flat;

(b) state that, for such reasons as are specified in the counter-notice, the landlord does not admit that the tenant had such a right on that date;

(c) contain such a statement as is mentioned in paragraph (a) or (b) above but state that the landlord intends to make an application for an order under section 47(1) on the grounds that he intends to redevelop any premises in which the flat is contained.

(3) If the counter-notice complies with the requirement set out in subsection (2)(a), it must in addition—

(a) state which (if any) of the proposals contained in the tenant's notice are accepted by the landlord and which (if any) of those proposals are not so accepted; and

(b) specify, in relation to each proposal which is not accepted, the landlord's counter-proposal.

(4) The counter-notice must specify an address in England and Wales at which notices may be given to the landlord under this Chapter.

(5) Where the counter-notice admits the tenant's right to acquire a new lease of his flat, the admission shall be binding on the landlord as to the matters mentioned in section 39(2)(a) and (b), 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 flat stated in the tenant's notice in pursuance of section 42(3)(b)(i) are correct.

Applications to court or leasehold valuation tribunal

46 Proceedings relating to validity of tenant's notice.

(1) Where—

(a) the landlord has given the tenant a counter-notice under section 45 which (whether it complies with the requirement set out in subsection (2)(b) or (c) of that section) contains such a statement as is mentioned in subsection (2)(b) of that section, and

(b) the court is satisfied, on an application made by the landlord, that on the relevant date the tenant had no right under this Chapter to acquire a new lease of his flat,

the court shall by order make a declaration to that effect.

(2) Any application for an order under subsection (1) must be made not later than the end of the period of two months beginning with the date of the giving of the counter-notice to the tenant; and if, in a case falling within paragraph (a) of that subsection, either—

(a) no application for such an order is made by the landlord within that period, or

(b) such an application is so made but is subsequently withdrawn,

section 49 shall apply as if the landlord had not given the counter-notice.

(3) If on any such application the court makes such a declaration as is mentioned in subsection (1), the tenant's notice shall cease to have effect on the order becoming final.

(4) If, however, any such application is dismissed by the court, then (subject to subsection (5)) the court shall make an order—

(a) declaring that the landlord's counter-notice shall be of no effect, and

(b) requiring the landlord to give a further counter-notice to the tenant by such date as is specified in the order.

(5) Subsection (4) shall not apply if—

(a) the counter-notice complies with the requirement set out in section 45(2)(c), and

(b) either—

(i) an application for an order under section 47(1) is pending, or

(ii) the period specified in section 47(3) as the period for the making of such an application has not expired.

(6) Subsection (3) of section 45 shall apply to any further counter-notice required to be given by the landlord under subsection (4) above as if it were a counter-notice under that section complying with the requirement set out in subsection (2)(a) of that section.

47 Application to defeat tenant's claim where landlord intends to redevelop.

(1) Where the landlord has given the tenant a counter-notice under section 45 which complies with the requirement set out in subsection (2)(c) of that section, the court may, on the application of the landlord, by order declare that the right to acquire a new lease shall not be exercisable by the tenant by reason of the landlord's intention to redevelop any premises in which the tenant's flat is contained; and on such an order becoming final the tenant's notice shall cease to have effect.

(2) The court shall not make an order under subsection (1) unless it is satisfied—

(a) that the tenant's lease of his flat is due to terminate within the period of five years beginning with the relevant date; and

(b) that for the purposes of redevelopment the landlord intends, once the lease has so terminated—

(i) to demolish or reconstruct, or

(ii) to carry out substantial works of construction on,

the whole or a substantial part of any premises in which the flat is contained; and

(c) that he could not reasonably do so without obtaining possession of the flat.

(3) Any application for an order under subsection (1) must be made within the period of two months beginning with the date of the giving of the counter-notice to the tenant; but, where the counter-notice is one falling within section 46(1)(a), such an application shall not be proceeded with until such time (if any) as any order dismissing an application under section 46(1) becomes final.

(4) Where an application for an order under subsection (1) is dismissed by the court, the court shall make an order—

(a) declaring that the landlord's counter-notice shall be of no effect, and

(b) requiring the landlord to give a further counter-notice to the tenant by such date as is specified in the order.

(5) Where—

(a) the landlord has given such a counter-notice as is mentioned in subsection (1), but

(b) either—

(i) no application for an order under that subsection is made within the period referred to in subsection (3), or

(ii) such an application is so made but is subsequently withdrawn,

then (subject to subsection (7)), the landlord shall give a further counter-notice to the tenant within the period of two months beginning with the appropriate date.

(6) In subsection (5) "the appropriate date" means—

(a) if subsection (5)(b)(i) applies, the date immediately following the end of the period referred to in subsection (3); and

(b) if subsection (5)(b)(ii) applies, the date of withdrawal of the application.

(7) Subsection (5) shall not apply if any application has been made by the landlord for an order under section 46(1).

(8) Subsection (3) of section 45 shall apply to any further counter-notice required to be given by the landlord under subsection (4) or (5) above as if it were a counter-notice under that section complying with the requirement set out in subsection (2)(a) of that section.

48 Applications where terms in dispute or failure to enter into new lease.

(1) Where the landlord has given the tenant—

(a) a counter-notice under section 45 which complies with the requirement set out in subsection (2)(a) of that section, or

(b) a further counter-notice required by or by virtue of section 46(4) or section 47(4) or (5),

but any of the terms of acquisition remain in dispute at the end of the period of two months beginning with the date when the counter-notice or further counter-notice was so given, a leasehold valuation tribunal may, on the application of either the tenant or the landlord, determine the matters in dispute.

(2) Any application under subsection (1) must be made not later than the end of the period of six months beginning with the date on which the counter-notice or further counter-notice was given to the tenant.

(3) Where—

(a) the landlord has given the tenant such a counter-notice or further counter-notice as is mentioned in subsection (1)(a) or (b), and

(b) all the terms of acquisition have been either agreed between those persons or determined by a leasehold valuation tribunal under subsection (1),

but a new lease has not been entered into in pursuance of the tenant's notice by the end of the appropriate period specified in subsection (6), the court may, on the application of either the tenant or the landlord, make such order as it thinks fit with respect to the performance or discharge of any obligations arising out of that notice.

(4) Any such order may provide for the tenant's notice to be deemed to have been withdrawn at the end of the appropriate period specified in subsection (6).

(5) Any application for an order under subsection (3) must be made not later than the end of the period of two months beginning immediately after the end of the appropriate period specified in subsection (6).

(6) For the purposes of this section the appropriate period is—

(a) where all of the terms of acquisition have been agreed between the tenant and the landlord, the period of two months beginning with the date when those terms were finally so agreed; or

(b) where all or any of those terms have been determined by a leasehold valuation tribunal under subsection (1)—

(i) the period of two months beginning with the date when the decision of the tribunal under subsection (1) becomes final, or

(ii) such other period as may have been fixed by the tribunal when making its determination.

(7) In this Chapter "the terms of acquisition", in relation to a claim by a tenant under this Chapter, means the terms on which the tenant is to acquire a new lease of his flat, whether they relate to the terms to be contained in the lease or to the premium or any other amount payable by virtue of Schedule 13 in connection with the grant of the lease, or otherwise.

49 Applications where landlord fails to give counter-notice or further counter-notice.

(1) Where the tenant's notice has been given in accordance with section 42 but—

(a) the landlord has failed to give the tenant a counter-notice in accordance with section 45(1), or

(b) if required to give a further counter-notice to the tenant by or by virtue of section 46(4) or section 47(4) or (5), the landlord has failed to comply with that requirement,

the court may, on the application of the tenant, make an order determining, in accordance with the proposals contained in the tenant's notice, the terms of acquisition.

(2) The court shall not make such an order on an application made by virtue of paragraph (a) of subsection (1) unless it is satisfied—

(a) that on the relevant date the tenant had the right to acquire a new lease of his flat; and

(b) if applicable, that the requirements of Part I of Schedule 11 were complied with as respects the giving of copies of the tenant's notice.

(3) Any application for an order under subsection (1) must be made not later than the end of the period of six months beginning with the date by which the counter-notice or further counter-notice referred to in that subsection was required to be given.

(4) Where—

(a) the terms of acquisition have been determined by an order of the court under this section, but

(b) a new lease has not been entered into in pursuance of the tenant's notice by the end of the appropriate period specified in subsection (7),

the court may, on the application of either the tenant or the landlord, make such order as it thinks fit with respect to the performance or discharge of any obligations arising out of that notice.

(5) Any such order may provide for the tenant's notice to be deemed to have been withdrawn at the end of the appropriate period specified in subsection (7).

(6) Any application for an order under subsection (4) must be made not later than the end of the period of two months beginning immediately after the end of the appropriate period specified in subsection (7).

(7) For the purposes of this section the appropriate period is—

(a) the period of two months beginning with the date when the order of the court under subsection (1) becomes final, or

(b) such other period as may have been fixed by the court when making that order.

50 Applications where landlord cannot be found.

(1) Where—

(a) a qualifying tenant of a flat desires to make a claim to exercise the right to acquire a new lease of his flat, but

(b) the landlord cannot be found or his identity cannot be ascertained,

the court may, on the application of the tenant, make a vesting order under this subsection.

(2) Where—

(a) a qualifying tenant of a flat desires to make such a claim as is mentioned in subsection (1), and

(b) paragraph (b) of that subsection does not apply, but

(c) a copy of a notice of that claim cannot be given in accordance with Part I of Schedule 11 to any person to whom it would otherwise be required to be so given because that person cannot be found or his identity cannot be ascertained,

the court may, on the application of the tenant, make an order dispensing with the need to give a copy of such a notice to that person.

(3) The court shall not make an order on any application under subsection (1) or (2) unless it is satisfied—

(a) that on the date of the making of the application the tenant had the right to acquire a new lease of his flat; and

(b) that on that date he would not have been precluded by any provision of this Chapter from giving a valid notice under section 42 with respect to his flat.

(4) Before making any such order the court may require the tenant to take such further steps by way of advertisement or otherwise as the court thinks proper for the purpose of tracing the person in question; and if, after an application is made for a vesting order under subsection (1) and before any lease is executed in pursuance of the application, the landlord is traced, then no further proceedings shall be taken with a view to a lease being so executed, but (subject to subsection (5))—

(a) the rights and obligations of all parties shall be determined as if the tenant had, at the date of the application, duly given notice under section 42 of his claim to exercise the right to acquire a new lease of his flat; and

(b) the 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 Chapter or of regulations made under this Part.

(5) An application for a vesting order under subsection (1) may be withdrawn at any time before execution of a lease under section 51(3) and, after it is withdrawn, subsection (4)(a) above shall not apply; but where any step is taken (whether by the landlord or the tenant) for the purpose of giving effect to subsection (4)(a) in the case of any application, the application shall not afterwards be withdrawn except—

(a) with the consent of the landlord, or

(b) by leave of the court,

and the 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 tenant in consequence of the tracing of the landlord.

(6) Where an order has been made under subsection (2) dispensing with the need to give a copy of a notice under section 42 to a particular person with respect to any flat, then if—

(a) a notice is subsequently given under that section with respect to that flat, and

(b) in reliance on the order, a copy of the notice is not to be given to that person,

the notice must contain a statement of the effect of the order.

(7) Where a notice under section 42 contains such a statement in accordance with subsection (6) above, then in determining for the purposes of any provision of this Chapter whether the requirements of Part I of Schedule 11 have been complied with in relation to the notice, those requirements shall be deemed to have been complied with so far as relating to the giving of a copy of the notice to the person referred to in subsection (6) above.

51 Supplementary provisions relating to vesting orders under section 50(1).

(1) A vesting order under section 50(1) is an order providing for the surrender of the tenant's lease of his flat and for the granting to him of a new lease of it on such terms as may be determined by a leasehold valuation tribunal to be appropriate with a view to the lease being granted to him in like manner (so far as the circumstances permit) as if he had, at the date of his application, given notice under section 42 of his claim to exercise the right to acquire a new lease of his flat.

(2) If a leasehold valuation tribunal so determines in the case of a vesting order under section 50(1), the order shall have effect in relation to property which is less extensive than that specified in the application on which the order was made.

(3) Where any lease is to be granted to a tenant by virtue of a vesting order under section 50(1), then on his paying into court the appropriate sum there shall be executed by such person as the court may designate a lease which—

(a) is in a form approved by a leasehold valuation tribunal, and

(b) contains such provisions as may be so approved for the purpose of giving effect so far as possible to section 56(1) and section 57 (as that section applies in accordance with subsections (7) and (8) below);

and that lease shall be effective to vest in the person to whom it is granted the property expressed to be demised by it, subject to and in accordance with the terms of the lease.

(4) In connection with the determination by a leasehold valuation tribunal of any question as to the property to be demised by any such lease, or as to the rights with or subject to which it is to be demised, it shall be assumed (unless the contrary is shown) that the

landlord has no interest in property other than the property to be demised and, for the purpose of excepting them from the lease, any minerals underlying that property.

(5) The appropriate sum to be paid into court in accordance with subsection (3) is the aggregate of—

(a) such amount as may be determined by a leasehold valuation tribunal to be the premium which is payable under Schedule 13 in respect of the grant of the new lease;

(b) such other amount or amounts (if any) as may be determined by such a tribunal to be payable by virtue of that Schedule in connection with the grant of that lease; and

(c) any amounts or estimated amounts determined by such a tribunal as being, at the time of execution of that lease, due to the landlord from the tenant (whether due under or in respect of the tenant's lease of his flat or under or in respect of any agreement collateral thereto).

(6) Where any lease is granted to a person in accordance with this section, the payment into court of the appropriate sum shall be taken to have satisfied any claims against the tenant, his personal representatives or assigns in respect of the premium and any other amounts payable as mentioned in subsection (5)(a) and (b).

(7) Subject to subsection (8), the following provisions, namely—

(a) sections 57 to 59, and

(b) section 61 and Schedule 14,

shall, so far as capable of applying to a lease granted in accordance with this section, apply to such a lease as they apply to a lease granted under section 56; and subsections (6) and (7) of that section shall apply in relation to a lease granted in accordance with this section as they apply in relation to a lease granted under that section.

(8) In its application to a lease granted in accordance with this section—

(a) section 57 shall have effect as if—

(i) any reference to the relevant date were a reference to the date of the application under section 50(1) in pursuance of which the vesting order under that provision was made, and

(ii) in subsection (5) the reference to section 56(3)(a) were a reference to subsection (5)(c) above; and

(b) section 58 shall have effect as if—

(i) in subsection (3) the second reference to the landlord were a reference to the person designated under subsection (3) above, and

(ii) subsections (6)(a) and (7) were omitted.

Termination or suspension of acquisition procedures

52 Withdrawal by tenant from acquisition of new lease.

(1) At any time before a new lease is entered into in pursuance of the tenant's notice, the tenant may withdraw that notice by the giving of a notice to that effect under this section ("a notice of withdrawal").

(2) A notice of withdrawal must be given—

(a) to the landlord for the purposes of this Chapter;

(b) to every other landlord (as defined by section 40(4)); and

(c) to any third party to the tenant's lease.

(3) Where a notice of withdrawal is given by the tenant to any person in accordance with subsection (2), the tenant's liability under section 60 for costs incurred by that person shall be a liability for costs incurred by him down to the time when the notice is given to him.

53 Deemed withdrawal of tenant's notice.

(1) Where—

(a) in a case to which subsection (1) of section 48 applies, no application under that subsection is made within the period specified in subsection (2) of that section, or

(b) in a case to which subsection (3) of that section applies, no application for an order under that subsection is made within the period specified in subsection (5) of that section,

the tenant's notice shall be deemed to have been withdrawn at the end of the period referred to in paragraph (a) or (b) above (as the case may be).

(2) Where, in a case falling within paragraph (a) or (b) of subsection (1) of section 49, no application for an order under that subsection is made within the period specified in subsection (3) of that section, the tenant's notice shall be deemed to have been withdrawn at the end of that period.

(3) Where, in a case to which subsection (4) of section 49 applies, no application for an order under that subsection is made within the period specified in subsection (6) of that section, the tenant's notice shall be deemed to have been withdrawn at the end of that period.

(4) The following provisions, namely—

(a) section 43(3),

(b) section 48(4), and

(c) section 49(5),

also make provision for a notice under section 42 to be deemed to have been withdrawn at a particular time.

54 Suspension of tenant's notice during currency of claim under Chapter I.

(1) If, at the time when the tenant's notice is given—

(a) a notice has been given under section 13 with respect to any premises containing the tenant's flat, and

(b) the relevant claim under Chapter I is still current,

the operation of the tenant's notice shall be suspended during the currency of that claim; and so long as it is so suspended no further notice shall be given, and no application shall be made, under this Chapter with a view to resisting or giving effect to the tenant's claim.

(2) If, at any time when the tenant's notice continues in force, a notice is given under section 13 with respect to any premises containing the tenant's flat, then, as from the date which is the relevant date for the purposes of Chapter I in relation to that notice under section 13, the operation of the tenant's notice shall be suspended during the

currency of the relevant claim under Chapter I; and so long as it is so suspended no further notice shall be given, and no application shall be made or proceeded with, under this Chapter with a view to resisting or giving effect to the tenant's claim.

(3) Where the operation of the tenant's notice is suspended by virtue of subsection (1) or (2), the landlord shall give the tenant a notice informing him of its suspension—

(a) (if it is suspended by virtue of subsection (1)) not later than the date specified in the tenant's notice in pursuance of section 42(3)(f); or

(b) (if it is suspended by virtue of subsection (2)) as soon as possible after the date referred to in that subsection;

and any such notice shall in addition inform the tenant of the date on which the notice under section 13 was given and of the name and address of the nominee purchaser for the time being appointed for the purposes of section 15 in relation to the relevant claim under Chapter I.

(4) Where—

(a) the operation of the tenant's notice is suspended by virtue of subsection (1), and

(b) as a result of the relevant claim under Chapter I ceasing to be current, the operation of the tenant's notice subsequently ceases to be so suspended and the tenant's notice thereupon continues in force in accordance with section 42(8),

then, as from the date when that claim ceases to be current ("the termination date"), this Chapter shall apply as if there were substituted for the date specified in the tenant's notice in pursuance of section 42(3)(f) such date as results in the period of time intervening between the termination date and that date being equal to the period of time intervening between the relevant date and the date originally so specified.

(5) Where—

(a) the operation of the tenant's notice is suspended by virtue of subsection (2), and

(b) its suspension began in circumstances falling within subsection (6), and

(c) as a result of the relevant claim under Chapter I ceasing to be current, the operation of the tenant's notice subsequently ceases to be so suspended and the tenant's notice thereupon continues in force in accordance with section 42(8),

any relevant period shall be deemed to have begun on the date when that claim ceases to be current.

(6) The circumstances referred to in subsection (5)(b) are that the suspension of the operation of the tenant's notice began—

(a) before the date specified in the tenant's notice in pursuance of section 42(3)(f) and before the landlord had given the tenant a counter-notice under section 45; or

(b) after the landlord had given the tenant a counter-notice under section 45 complying with the requirement set out in subsection (2)(b) or (c) of that section but—

(i) before any application had been made for an order under section 46(1) or 47(1), and

(ii) before the period for making any such application had expired; or

(c) after an order had been made under section 46(4) or 47(4) but—

(i) before the landlord had given the tenant a further counter-notice in accordance with the order, and

(ii) before the period for giving any such counter-notice had expired.

(7) Where—

(a) the operation of the tenant's notice is suspended by virtue of subsection (2), and

(b) its suspension began otherwise than in circumstances falling within subsection (6), and

(c) as a result of the relevant claim under Chapter I ceasing to be current, the operation of the tenant's notice subsequently ceases to be so suspended and the tenant's notice thereupon continues in force in accordance with section 42(8),

any relevant period shall be deemed to have begun on the date on which the tenant is given a notice under subsection (8) below or, if earlier, the date on which the tenant gives the landlord a notice informing him of the circumstances by virtue of which the operation of the tenant's notice has ceased to be suspended.

(8) Where subsection (4), (5) or (7) applies, the landlord shall, as soon as possible after becoming aware of the circumstances by virtue of which the operation of the tenant's notice has ceased to be suspended as mentioned in that subsection, give the tenant a notice informing him that, as from the date when the relevant claim under Chapter I ceased to be current, the operation of his notice is no longer suspended.

(9) Subsection (8) shall not, however, require the landlord to give any such notice if he has received a notice from the tenant under subsection (7).

(10) In subsections (5) and (7) "relevant period" means any period which—

(a) is prescribed by or under this Part for the giving of any notice, or the making of any application, in connection with the tenant's notice; and

(b) was current at the time when the suspension of the operation of the tenant's notice began.

(11) For the purposes of this section—

(a) "the relevant claim under Chapter I", in relation to a notice under section 13, means the claim in respect of which that notice is given; and

(b) any such claim is current if—

(i) that notice continues in force in accordance with section 13(11), or

(ii) a binding contract entered into in pursuance of that notice remains in force, or

(iii) where an order has been made under section 24(4)(a) or (b) or 25(6)(a) or (b) with respect to any such premises as are referred to in subsection (1) or (2) above (as the case may be), any interests which by virtue of the order fall to be vested in the nominee purchaser for the purposes of Chapter I have yet to be so vested.

55 Effect on tenant's notice of institution of compulsory acquisition procedures.

(1) A notice given by a tenant under section 42 shall be of no effect if on the relevant date—

(a) any person or body of persons who has or have been, or could be, authorised to acquire the whole or part of the tenant's flat compulsorily for any purpose has or have, with a view to its acquisition for that purpose—

(i) served notice to treat on the landlord or the tenant, or

(ii) entered into a contract for the purchase of the interest of either of them in the flat or part of it, and

(b) the notice to treat or contract remains in force.

(2) A notice given by a tenant under section 42 shall cease to have effect if, before a new lease is entered into in pursuance of it, any such person or body of persons as is mentioned in subsection (1) serves or serve notice to treat as mentioned in that subsection.

(3) Where subsection (2) applies in relation to a notice given by a tenant under section 42, then on the occasion of the compulsory acquisition in question the compensation payable in respect of any interest in the tenant's flat (whether or not the one to which the relevant 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.

Grant of new lease

56 Obligation to grant new lease.

(1) Where a qualifying tenant of a flat has under this Chapter a right to acquire a new lease of the flat and gives notice of his claim in accordance with section 42, then except as provided by this Chapter the landlord shall be bound to grant to the tenant, and the tenant shall be bound to accept—

(a) in substitution for the existing lease, and

(b) on payment of the premium payable under Schedule 13 in respect of the grant,

a new lease of the flat at a peppercorn rent for a term expiring 90 years after the term date of the existing lease.

(2) In addition to any such premium there shall be payable by the tenant in connection with the grant of any such new lease such amounts to the owners of any intermediate leasehold interests (within the meaning of Schedule 13) as are so payable by virtue of that Schedule.

(3) A tenant shall not be entitled to require the execution of any such new lease otherwise than on tendering to the landlord, in addition to the amount of any such premium and any other amounts payable by virtue of Schedule 13, the amount so far as ascertained—

(a) of any sums payable by him by way of rent or recoverable from him as rent in respect of the flat up to the date of tender;

(b) of any sums for which at that date the tenant is liable under section 60 in respect of costs incurred by any relevant person (within the meaning of that section); and

(c) of any other sums due and payable by him to any such person under or in respect of the existing lease;

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.

(4) To the extent that any amount tendered to the landlord in accordance with subsection (3) is an amount due to a person other than the landlord, that amount shall

be payable to that person by the landlord; and that subsection has effect subject to paragraph 7(2) of Schedule 11.

(5) No provision of any lease prohibiting, restricting or otherwise relating to a sub-demise by the tenant under the lease shall have effect with reference to the granting of any lease under this section.

(6) It is hereby declared that nothing in any of the provisions specified in paragraph 1(2) of Schedule 10 (which impose requirements as to consent or consultation or other restrictions in relation to disposals falling within those provisions) applies to the granting of any lease under this section.

(7) For the purposes of subsection (6), paragraph 1(2) of Schedule 10 has effect as if the reference to section 79(2) of the [M27]Housing Act 1988 (which is not relevant in the context of subsection (6)) were omitted.

Marginal Citations
M27 1988 c.50.

57 Terms on which new lease is to be granted.

(1) Subject to the provisions of this Chapter (and in particular to the provisions as to rent and duration contained in section 56(1)), the new lease to be granted to a tenant under section 56 shall be a lease on the same terms as those of the existing lease, as they apply on the relevant date, but with such modifications as may be required or appropriate to take account—

(a) of the omission from the new lease of property included in the existing lease but not comprised in the flat;

(b) of alterations made to the property demised since the grant of the existing lease; or

(c) in a case where the existing lease derives (in accordance with section 7(6) as it applies in accordance with section 39(3)) from more than one separate leases, of their combined effect and of the differences (if any) in their terms.

(2) Where during the continuance of the new lease the landlord will be under any obligation for the provision of services, or for repairs, maintenance or insurance—

(a) the new lease may require payments to be made by the tenant (whether as rent or otherwise) in consideration of those matters or in respect of the cost thereof to the landlord; and

(b) (if the terms of the existing lease do not include any provision for the making of any such payments by the tenant or include provision only for the payment of a fixed amount) the terms of the new lease shall make, as from the term date of the existing lease, such provision as may be just—

(i) for the making by the tenant of payments related to the cost from time to time to the landlord, and

(ii) for the tenant's liability to make those payments to be enforceable by distress, re-entry or otherwise in like manner as if it were a liability for payment of rent.

(3) Subject to subsection (4), provision shall be made by the terms of the new lease or by an agreement collateral thereto for the continuance, with any suitable adaptations, of any agreement collateral to the existing lease.

(4) For the purposes of subsections (1) and (3) there shall be excluded from the new lease any term of the existing lease or of any agreement collateral thereto in so far as that term—

(a) provides for or relates to the renewal of the lease,

(b) confers any option to purchase or right of pre-emption in relation to the flat demised by the existing lease, or

(c) provides for the termination of the existing lease before its term date otherwise than in the event of a breach of its terms;

and there shall be made in the terms of the new lease or any agreement collateral thereto such modifications as may be required or appropriate to take account of the exclusion of any such term.

(5) Where the new lease is granted after the term date of the existing lease, then on the grant of the new lease there shall be payable by the tenant to the landlord, as an addition to the rent payable under the existing lease, any amount by which, for the period since the term date or the relevant date (whichever is the later), the sums payable to the landlord in respect of the flat (after making any necessary apportionment) for the matters referred to in subsection (2) fall short in total of the sums that would have been payable for such matters under the new lease if it had been granted on that date; and section 56(3)(a) shall apply accordingly.

(6) Subsections (1) to (5) shall have effect subject to any agreement between the landlord and tenant as to the terms of the new lease or any agreement collateral thereto; and either of them may require that for the purposes of the new lease any term of the existing lease shall be excluded or modified in so far as—

(a) it is necessary to do so in order to remedy a defect in the existing lease; or

(b) it would be unreasonable in the circumstances to include, or include without modification, the term in question in view of changes occurring since the date of commencement of the existing lease which affect the suitability on the relevant date of the provisions of that lease.

(7) The terms of the new lease shall—

(a) make provision in accordance with section 59(3); and

(b) reserve to the person who is for the time being the tenant's immediate landlord the right to obtain possession of the flat in question in accordance with section 61.

[[F77](8) In granting the new lease 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 an underlease) 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).

(8A) A person entering into any covenant required of him as landlord (under subsection (8) or otherwise) shall be entitled to limit his personal liability to breaches of that covenant for which he is responsible.**]**

(9) Where any person—

(a) is a third party to the existing lease, or

(b) (not being the landlord or tenant) is a party to any agreement collateral thereto,

then (subject to any agreement between him and the landlord and the tenant) he shall be made a party to the new lease or (as the case may be) to an agreement collateral thereto, and shall accordingly join in its execution; but nothing in this section has effect so as to require the new lease or (as the case may be) any such collateral agreement to provide for him to discharge any function at any time after the term date of the existing lease.

(10) Where—

(a) any such person ("the third party") is in accordance with subsection (9) to discharge any function down to the term date of the existing lease, but

(b) it is necessary or expedient in connection with the proper enjoyment by the tenant of the property demised by the new lease for provision to be made for the continued discharge of that function after that date,

the new lease or an agreement collateral thereto shall make provision for that function to be discharged after that date (whether by the third party or by some other person).

(11) The new lease shall contain a statement that it is a lease granted under section 56; and any such statement shall comply with such requirements as may be prescribed by rules made in pursuance of section 144 of the [M28]Land Registration Act 1925 (power to make general rules).

Textual Amendments

F77 S. 57(8)(8A) substituted for s. 57(8) (1.7.1995) by 1994 c. 36, s. 21(1), **Sch. 1 para. 12(2)** (with s. 20); S.I. 1995/1317, **art.2**

Marginal Citations

M28 1925 c. 21.

58 Grant of new lease where interest of landlord or tenant is subject to a mortgage.

(1) Subject to subsection (2), a qualifying tenant shall be entitled to be granted a new lease under section 56 despite the fact that the grant of the existing lease was subsequent to the creation of a mortgage on the landlord's interest and not authorised as against the persons interested in the mortgage; and a lease granted under that section—

(a) shall be deemed to be authorised as against the persons interested in any mortgage on the landlord's interest (however created or arising), and

(b) shall be binding on those persons.

(2) A lease granted under section 56 shall not, by virtue of subsection (1) above, be binding on the persons interested in any such mortgage if the existing lease—

(a) is granted after the commencement of this Chapter, and

(b) being granted subsequent to the creation of the mortgage, would not, apart from that subsection, be binding on the persons interested in the mortgage.

(3) Where—

(a) a lease is granted under section 56, and

(b) any person having a mortgage on the landlord's interest is thereby entitled to possession of the documents of title relating to that interest,

the landlord shall, within one month of the execution of the lease, deliver to that person a counterpart of it duly executed by the tenant.

(4) Where the existing lease is, immediately before its surrender on the grant of a lease under section 56, subject to any mortgage, the new lease shall take effect subject to the mortgage in substitution for the existing lease; and the terms of the mortgage, as set out in the instrument creating or evidencing it, shall accordingly apply in relation to the new lease in like manner as they applied in relation to the existing lease.

(5) Where—

(a) a lease granted under section 56 takes effect subject to any such subsisting mortgage on the existing lease, and

(b) at the time of execution of the new lease the person having the mortgage is thereby entitled to possession of the documents of title relating to the existing lease,

he shall be similarly entitled to possession of the documents of title relating to the new lease; and the tenant shall deliver the new lease to him within one month of the date on which the lease is received from Her Majesty's Land Registry following its registration.

(6) Where—

(a) the landlord fails to deliver a counterpart of the new lease in accordance with subsection (3), or

(b) the tenant fails to deliver the new lease in accordance with subsection (5),

the instrument creating or evidencing the mortgage in question shall apply as if the obligation to deliver a counterpart or (as the case may be) deliver the lease were included in the terms of the mortgage as set out in that instrument.

(7) A landlord granting a lease under section 56 shall be bound to take such steps as may be necessary to secure that the lease is not liable in accordance with subsection (2) to be defeated by persons interested in a mortgage on his interest; but a landlord is not obliged, in order to grant a lease for the purposes of that section, to acquire a better title than he has or could require to be vested in him.

[F78 58A Priority of interests on grant of new lease.

(1) Where a lease granted under section 56 takes effect subject to two or more interests to which the existing lease was subject immediately before its surrender, the interests shall have the same priority in relation to one another on the grant of the new lease as they had immediately before the surrender of the existing lease.

(2) Subsection (1) is subject to agreement to the contrary.

(3) Where a person who is entitled on the grant of a lease under section 56 to rights of occupation in relation to the flat comprised in that lease was entitled immediately before the surrender of the existing lease to rights of occupation in relation to the flat comprised in that lease, the rights to which he is entitled on the grant of the new lease

shall be treated as a continuation of the rights to which he was entitled immediately before the surrender of the existing lease.

(4) In this section—

"the existing lease", in relation to a lease granted under section 56, means the lease surrendered on the grant of the new lease, and

"rights of occupation" has the same meaning as in the [M29]Matrimonial Homes Act 1983.**]**

Textual Amendments

F78 S. 58A inserted (1.10.1996) by 1996 c. 52, **s.117**; S.I. 1996/2212, **art. 2(2)**

Marginal Citations

M29 1983 c. 19.

59 Further renewal, but no security of tenure, after grant of new lease.

(1) The right to acquire a new lease under this Chapter may be exercised in relation to a lease of a flat despite the fact that the lease is itself a lease granted under section 56; and the provisions of this Chapter shall, with any necessary modifications, apply for the purposes of or in connection with any claim to exercise that right in relation to a lease so granted as they apply for the purposes of or in connection with any claim to exercise that right in relation to a lease which has not been so granted.

(2) Where a lease has been granted under section 56—

(a) none of the statutory provisions relating to security of tenure for tenants shall apply to the lease;

(b) after the term date of the lease none of the following provisions, namely—

(i) section 1 of the [M30]Landlord and Tenant Act 1954 or Schedule 10 to the [M31]Local Government and Housing Act 1989 (which make provision for security of tenure on the ending of long residential tenancies), or

(ii) Part II of that Act of 1954 (business tenancies),

shall apply to any sub-lease directly or indirectly derived out of the lease; and

(c) after that date no person shall be entitled by virtue of any such sub-lease to retain possession under—

(i) Part VII of the [M32]Rent Act 1977 (security of tenure for protected tenancies etc.) or any enactment applying or extending that Part of that Act,

(ii) the [M33]Rent (Agriculture) Act 1976, or

(iii) Part I of the [M34]Housing Act 1988 (assured tenancies etc.).

(3) Where a lease has been granted under section 56, no long lease created immediately or derivatively by way of sub-demise under the lease shall confer on the sub-tenant, as against the tenant's landlord, any right under this Chapter to acquire a new lease (and for this purpose "long lease" shall be construed in accordance with section 7).

(4) Any person who—

(a) grants a sub-lease to which subsection (2)(b) and (c) will apply, or

(b) negotiates with a view to the grant of such a sub-lease by him or by a person for whom he is acting as agent,

shall inform the other party that the sub-lease is to be derived out of a lease granted under section 56, unless either he knows that the other party is aware of it or he himself is unaware of it.

(5) Where any lease contains a statement to the effect that it is a lease granted under section 56, the statement shall be conclusive for the purposes of subsections (2) to (4) in favour of any person who is not a party to the lease, unless the statement appears from the lease to be untrue.

Marginal Citations

M30 1954 c. 56.
M31 1989 c. 42.
M32 1977 c. 42.
M33 1976 c. 80.
M34 1988 c. 50.

Costs incurred in connection with new lease

60 Costs incurred in connection with new lease to be paid by tenant.

(1) Where a notice is given under section 42, then (subject to the provisions of this section) the tenant by whom it is given shall be liable, to the extent that they have been incurred by any relevant person in pursuance of the notice, for the reasonable costs of and incidental to any of the following matters, namely—

(a) any investigation reasonably undertaken of the tenant's right to a new lease;

(b) any valuation of the tenant's flat obtained for the purpose of fixing the premium or any other amount payable by virtue of Schedule 13 in connection with the grant of a new lease under section 56;

(c) the grant of a new lease under that section;

but 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.

(2) For the purposes of subsection (1) any costs incurred by a relevant person in respect of professional services rendered by any person shall only be regarded as reasonable if and to the extent that costs in respect of such services might reasonably be expected to have been incurred by him if the circumstances had been such that he was personally liable for all such costs.

(3) Where by virtue of any provision of this Chapter the tenant's notice ceases to have effect, or is deemed to have been withdrawn, at any time, then (subject to subsection (4)) the tenant's liability under this section for costs incurred by any person shall be a liability for costs incurred by him down to that time.

(4) A tenant shall not be liable for any costs under this section if the tenant's notice ceases to have effect by virtue of section 47(1) or 55(2).

(5) A tenant shall not be liable under this section for any costs which a party to any proceedings under this Chapter before a leasehold valuation tribunal incurs in connection with the proceedings.

(6) In this section "relevant person", in relation to a claim by a tenant under this Chapter, means the landlord for the purposes of this Chapter, any other landlord (as defined by section 40(4)) or any third party to the tenant's lease.

Landlord's right to terminate new lease

61 Landlord's right to terminate new lease on grounds of redevelopment.

(1) Where a lease of a flat ("the new lease") has been granted under section 56 but the court is satisfied, on an application made by the landlord—

(a) that for the purposes of redevelopment the landlord intends—

(i) to demolish or reconstruct, or

(ii) to carry out substantial works of construction on,

the whole or a substantial part of any premises in which the flat is contained, and

(b) that he could not reasonably do so without obtaining possession of the flat,

the court shall by order declare that the landlord is entitled as against the tenant to obtain possession of the flat and the tenant is entitled to be paid compensation by the landlord for the loss of the flat.

(2) An application for an order under this section may be made—

(a) at any time during the period of 12 months ending with the term date of the lease in relation to which the right to acquire a new lease was exercised; and

(b) at any time during the period of five years ending with the term date of the new lease.

(3) Where the new lease is not the first lease to be granted under section 56 in respect of a flat, subsection (2) shall apply as if paragraph (b) included a reference to the term date of any previous lease granted under that section in respect of the flat, but paragraph (a) shall be taken to be referring to the term date of the lease in relation to which the right to acquire a new lease was first exercised.

(4) Where an order is made under this section, the new lease shall determine, and compensation shall become payable, in accordance with Schedule 14 to this Act; and the provisions of that Schedule shall have effect as regards the measure of compensation payable by virtue of any such order and the effects of any such order where there are sub-leases, and as regards other matters relating to orders and applications under this section.

(5) Except in subsection (1)(a) or (b), any reference in this section to the flat held by the tenant under the new lease includes any premises let with the flat under that lease.

[F79 Landlord's right to compensation in relation to ineffective claims

Textual Amendments

F79 Ss. 61A, 61B and cross heading inserted (1.10.1996) by 1996 c. 52, s. 116, **Sch. 11 para. 3(1)**; S.I. 1996/2212, **art. 2(2)**

F80 61A Compensation for postponement of termination in connection with ineffective claims.

(1) This section applies where, on or after 15th January 1999—

(a) a tenant of a flat makes a claim to acquire a new lease of the flat, and

(b) the claim is not made at least two years before the term date of the lease in respect of which the claim is made ("the existing lease").

(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 M35Local Government and Housing Act 1989 to cease to 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 existing lease, or

(c) the existing lease is continued under paragraph 5(1) of Schedule 12 by virtue of the claim.

(3) Compensation under subsection (2) 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) shall be equal to the difference between—

(a) the rent for the appropriate period under the existing lease, and

(b) the rent which might reasonably be expected to be payable for that period were the property to which the existing lease 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 lease.

(5) For the purposes of subsections (3) and (4), the appropriate period is—

(a) in a case falling within paragraph (a) of subsection (2), 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 Local Government and Housing Act 1989 served immediately after the date on which the claim ceases to have effect, or, if the existing lease is terminated before then, with the date on which it is terminated;

(b) in a case falling within paragraph (b) of subsection (2), 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 lease, and

(ii) ending six months after the date on which the claim ceases to have effect, or, if the existing lease is terminated before then, with the date of its termination; and

(c) in a case falling within paragraph (c) of subsection (2), the period for which the existing lease is continued under paragraph 5(1) of Schedule 12.

(6) For the purposes of subsection (2), a claim to a new lease is not effective if it ceases to have effect for any reason other than—

(a) the application of section 47(1) or 55(2), or

(b) the acquisition of the new lease in pursuance of the claim.

(7) For the purposes of this section—

(a) references to a claim to acquire a new lease shall be taken as references to a notice given, or purporting to be given (whether by a qualifying tenant or not), under section 42, and

(b) references to the date on which a claim ceases to have effect shall, in the case of a claim made by a notice which is not a valid notice under section 42, be taken as references to the date on which the notice is set aside by the court or is withdrawn or would, if valid, cease to have effect or be deemed to have been withdrawn, 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

F80 Ss. 61A, 61B and cross heading inserted (1.10.1996) by 1996 c. 52, s. 116, **Sch. 11 para. 3(1)**; S.I. 1996/2212, **art. 2(2)**

Marginal Citations

M35 1989 c. 42.

[F81 61B Modification of section 61A where change in immediate reversion.

(1) Where a tenant's liability to pay compensation under section 61A relates to a period during which there has been a change in the interest immediately expectant on the determination of his lease, that section shall have effect with the following modifications.

(2) For subsections (3) and (4) there shall be substituted—

(“) Compensation under subsection (2) 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 lease.

(4) Compensation under subsection (2) above shall—

(a) in the case of the interest which is immediately expectant on the determination of the existing lease 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 lease, 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 lease for the part of the appropriate period during which the interest was immediately expectant on the determination of that lease, 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 lease relates let for a term 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 lease.“

(3) In subsection (5), for “(3) and (4)” there shall be substituted “(3) to (4A)”.**]**

Textual Amendments

F81 Ss. 61A, 61B and cross heading inserted (1.10.1996) by 1996 c. 52, s. 116, **Sch. 11 para. 3(1)**; S.I. 1996/2212, **art. 2(2)**

Supplemental

62 Interpretation of Chapter II.

(1) In this Chapter—

“the existing lease”, in relation to a claim by a tenant under this Chapter, means the lease in relation to which the claim is made;

“the landlord”, in relation to such a claim, has the meaning given by section 40(1);

“mortgage” includes a charge or lien;

“qualifying tenant” shall be construed in accordance with section 39(3);

“the relevant date” (unless the context otherwise requires) has the meaning given by section 39(8);

“the tenant’s notice” means the notice given under section 42;

“the terms of acquisition” shall be construed in accordance with section 48(7);

“third party”, in relation to a lease, means any person who is a party to the lease apart from the tenant under the lease and his immediate landlord.

(2) Subject to subsection (3), references in this Chapter to a flat, in relation to a claim by a tenant under this Chapter, include any garage, outhouse, garden, yard and appurtenances belonging to, or usually enjoyed with, the flat and let to the tenant with the flat on the relevant date (or, in a case where an application is made under section 50(1), on the date of the making of the application).

(3) Subsection (2) does not apply—

(a) to any reference to a flat in section 47 or 55(1); or

(b) to any reference to a flat (not falling within paragraph (a) above) which occurs in the context of a reference to any premises containing the flat.

(4) In the application of section 8 for the purposes of this Chapter (in accordance with section 39(3)) references to a flat shall be construed in accordance with subsection (2) above, instead of in accordance with subsection (7) of section 8.

CHAPTER III

ENFRANCHISEMENT UNDER LEASEHOLD REFORM ACT 1967

Extension of right to enfranchise

63 Extension of right to enfranchise to houses whose value or rent exceeds applicable limit.

After section 1 of the [M36]Leasehold Reform Act 1967 there shall be inserted—

"**1A Right to enfranchisement only in case of houses whose value or rent exceeds limit under s.1 or 4.**

(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) 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."

Marginal Citations
M36 1967 c. 88.

64 Tenancies terminable after death or marriage.

(1) The following section shall be inserted in the Leasehold Reform Act 1967 after the section 1A inserted by section 63 above—

"**1B Right to enfranchisement only in case of certain tenancies terminable after death or marriage.**

Where a tenancy granted so as to become terminable by notice after a death or marriage—

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

(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."

(2) In section 3(1) of that Act (meaning of "long tenancy")—

(a) after "and includes" there shall be inserted " both a tenancy taking effect under section 149(6) of the Law of Property Act 1925 (leases terminable after a death or marriage) and "; and

(b) in the proviso (which prevents certain categories of tenancies terminable after death or marriage being long tenancies), for the words from "if either" onwards there shall be substituted "if—

(a) the notice is capable of being given at any time after the death or marriage of 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."

65 Additional "low rent" test.

After section 4 of the [M37]Leasehold Reform Act 1967 there shall be inserted—

"**4A Alternative rent limits for purposes of section 1A(2).**

(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

(ii) the property had a rateable value at the date of the 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;

(b) "the relevant date" means the date of the commencement of the tenancy or, if the property did not have a rateable value on that date, the date on which it first had a rateable value; and

(c) paragraphs (b) and (c) of section 4(1) above shall apply as they apply for the purposes of section 4(1);

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."

Marginal Citations
M37 1967 c. 88.

66 Price payable by tenant on enfranchisement by virtue of section 63 or 64.

(1) In section 9 of the [M38]Leasehold Reform Act 1967 (purchase price and costs of enfranchisement, etc.), after subsection (1B) there shall be inserted—

"(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 and 1B above shall be determined in accordance with subsection (1A) above; but in any such case—

(a) if in determining the price so payable 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 not exceed one-half of it; and

(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."

(2) Section 9 of that Act, as amended by this section and with the omission of repealed provisions, is set out in Schedule 15 to this Act.

(3) After section 9 of that Act there shall be inserted—

"**9A Compensation payable in cases where right to enfranchisement arises by virtue of section 1A or 1B.**

(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 and 1B above, 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."

Marginal Citations

M38 1967 c. 88.

Exceptions to right to enfranchise

67 Exclusion of right to enfranchise in case of houses let by charitable housing trusts.

(1) Section 1 of the [M39]Leasehold Reform Act 1967 (tenants entitled to enfranchisement or extension) shall be amended as follows.

(2) In subsection (3) (excepted cases) there shall be added at the end— " 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. "

(3) After subsection (3) there shall be inserted—

"(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 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 within the meaning of the Charities Act 1993."

Commencement Information

I2 S. 67 wholly in force at 1.11.1993 (subject to transitional provisions and savings in Sch. 1 to S.I. 1993/2134) see **s. 188(2)** and S.I. 1993/2134, **art. 5(b)**

Marginal Citations

M39 1967 c. 88.

68 Exclusion of right in case of property transferred for public benefit etc.

After section 32 of the [M40]Leasehold Reform Act 1967 there shall be inserted—

"**32A Property transferred for public benefit etc.**

(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.

(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

(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)."

Commencement Information

I3 S. 68 wholly in force at 1.11.1993 (subject to transitional provisions and savings in Sch. 1 to S.I. 1993/2134) see **s. 188(2)** and S.I. 1993/2134, **art. 5(b)**

Marginal Citations
M40 1967 c. 88.

CHAPTER IV

ESTATE MANAGEMENT SCHEMES IN CONNECTION WITH ENFRANCHISEMENT

69 Estate management schemes.

(1) For the purposes of this Chapter an estate management scheme is a scheme which (subject to sections 71 and 73) is approved by a leasehold valuation tribunal under section 70 for an area occupied directly or indirectly under leases held from one landlord (apart from property occupied by him or his licensees or for the time being unoccupied) and which is designed to secure that in the event of tenants—

[[F82](a) acquiring the landlord's interest in their house and premises ("the house") under Part I of the [M41]Leasehold Reform Act 1967 by virtue of the provisions of section 1AA of that Act (as inserted by paragraph 1 of Schedule 9 to the Housing Act 1996), or

(b) acquiring the landlord's interest in any premises ("the premises") in accordance with Chapter I of this Part of this Act by virtue of the amendments of that Chapter made by paragraph 3 of Schedule 9 to the Housing Act 1996,**]**

the landlord will—

(i) retain powers of management in respect of the house or premises, and

(ii) have rights against the house or premises in respect of the benefits arising from the exercise elsewhere of his powers of management.

(2) An estate management scheme may make different provision for different parts of the area of the scheme, 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 a leasehold valuation tribunal.

(3) Without prejudice to any other provision of this section, an estate management scheme may provide for all or any of the following matters—

(a) for regulating the redevelopment, use or appearance of property in which tenants have acquired the landlord's interest as mentioned in subsection (1) (a) or (b);

(b) for empowering the landlord for the time being to carry out works of maintenance, repair, renewal or replacement in relation to 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;

(c) for imposing on persons from time to time occupying or interested in any such property obligations in respect of the carrying out of works of maintenance, repair, renewal or replacement in relation to the property or property used or enjoyed by them in common with others, or in respect of costs 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 [M42]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.

(4) Except as provided by the scheme, the operation of an estate management scheme shall not be affected by any disposition or devolution of the landlord's interest in the property within the area of the scheme or in 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

(b) shall also 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.

(5) Without prejudice to the generality of paragraph (b) of subsection (4), an estate management scheme may provide for the operation of any provision for transfer included in the scheme in accordance with that paragraph to be dependent—

(a) on a determination of a leasehold valuation tribunal effecting or approving the transfer;

(b) on such other circumstances as the scheme may provide.

(6) An estate management scheme may extend to property in which the landlord's interest is disposed of otherwise than as mentioned in subsection (1)(a) or (b) (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 as mentioned in either of those provisions.

(7) In this Chapter 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 subsection (4)(b) above, as references to that authority or body.

Textual Amendments

F82 S. 69(1)(a)(b) substituted (1.4.1997) by 1996 c. 52, **s. 118(1)(2)**; S.I. 1997/618, **art. 2(1)** (with transitional savings in art. 2, Sch. para. 3)

Marginal Citations

M41 1967 c. 88.

M42 1925 c. 20.

70 Approval by leasehold valuation tribunal of estate management scheme.

(1) A leasehold valuation tribunal may, on an application made by a landlord for the approval of a scheme submitted by him to the tribunal, approve the scheme as an estate management scheme for such area falling within section 69(1) as is specified in the scheme; but any such application must (subject to section 72) be made within

the period of **[**[F83]two years beginning with the coming into force of section 118 of the Housing Act 1996**]**.

(2) A leasehold valuation tribunal shall not approve a scheme as an estate management scheme for any area unless it is satisfied that, in order to maintain adequate standards of appearance and amenity and regulate redevelopment within the area in the event of tenants acquiring the interest of the landlord in any property as mentioned in section 69(1)(a) or (b), it is in the general interest that the landlord should retain such powers of management and have such rights falling within section 69(1)(i) and (ii) as are conferred by the scheme.

(3) In considering whether to approve a scheme as an estate management scheme for any area, a leasehold valuation tribunal shall have regard primarily to—

(a) the benefit likely to result from the scheme to the area as a whole (including houses or premises likely to be acquired from the landlord as mentioned in section 69(1)(a) or (b)); and

(b) the extent to which it is reasonable to impose, for the benefit of the area, obligations on tenants so acquiring the interest of their landlord;

but the tribunal shall also have regard 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) A leasehold valuation tribunal shall not consider any application for it to approve a scheme unless it is satisfied that the applicant has, by advertisement or otherwise, given adequate notice to persons interested—

(a) informing them of the application for approval of the scheme and the provision intended to be made by the scheme, and

(b) inviting them to make representations to the tribunal about the application within a time which appears to the tribunal to be reasonable.

(5) In subsection (4) "persons interested" includes, in particular, in relation to any application for the approval of a scheme for any area ("the scheme area") within a conservation area—

(a) each local planning authority within whose area any part of the scheme area falls, and

(b) if the whole of the scheme area is in England, the Historic Buildings and Monuments Commission for England.

(6) Where representations about an application are made under subsection (4)(b), the tribunal shall afford to the persons making those representations an opportunity to appear and be heard by the tribunal at the time when the application is considered by it.

(7) Subject to the preceding provisions of this section, a leasehold valuation tribunal shall, after considering the application, approve the scheme in question either—

(a) as originally submitted, or

(b) with any relevant modifications proposed or agreed to by the applicant,

if the scheme (with those modifications, if any) appears to the tribunal—

(i) to be fair and practicable, and

(ii) 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.

(8) In subsection (7) "relevant modifications" means modifications relating to the extent of the area to which the scheme is to apply or to the provisions contained in it.

(9) If, having regard to—

(a) the matters mentioned in subsection (3), and

(b) the provision which it is practicable to make by a scheme,

the tribunal thinks it proper to do so, the tribunal may declare that no scheme can be approved for the area in question in pursuance of the application.

(10) A leasehold valuation tribunal shall not dismiss an application for the approval of a scheme unless—

(a) it makes such a declaration as is mentioned in subsection (9); or

(b) in the opinion of the tribunal the applicant is unwilling to agree to a suitable scheme or is not proceeding in the matter with due despatch.

(11) A scheme approved under this section as an estate management scheme for an area shall be a local land charge, notwithstanding section 2(a) or (b) of the [M43]Local Land Charges Act 1975 (matters which are not local land charges), and for the purposes of that Act the landlord for that area shall be treated as the originating authority as respects any such charge.

(12) Where such a scheme is registered in the appropriate 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 any acquisition such as is mentioned in section 69(1)(a) above, section 10 of the [M44]Leasehold Reform Act 1967 (rights to be conveyed on enfranchisement) shall have effect subject to the provisions of the scheme, and the price payable under section 9 of that Act shall be adjusted so far as is appropriate (if at all); and

(c) in relation to any acquisition such as is mentioned in section 69(1)(b) above, section 34 of, and Schedule 7 to, this Act shall have effect subject to the provisions of the scheme, and any price payable under Schedule 6 to this Act shall be adjusted so far as is appropriate (if at all).

(13) Section 10 of the Local Land Charges Act 1975 (compensation for non-registration etc.) shall not apply to schemes which, by virtue of subsection (11) above, are local land charges.

(14) In this section and in section 73 "conservation area" and "local planning authority" have the same meaning as in the [M45]Planning (Listed Buildings and Conservation Areas) Act 1990; and in connection with the latter expression—

(a) the expression "the planning Acts" in the [M46]Town and Country Planning Act 1990 shall be treated as including this Act; and

(b) paragraphs 4 and 5 of Schedule 4 to the Planning (Listed Buildings and Conservation Areas) Act 1990 (further provisions as to exercise of functions by different authorities) shall apply in relation to functions under or by virtue of this section or section 73 of this Act as they apply in relation to functions under section 69 of that Act.

Textual Amendments

F83 Words in s. 70(1) substituted (1.4.1997) by 1996 c. 52, **s. 118(1)(3)**; S.I. 1997/618, **art. 2(1)** (with transitional savings in art. 2, Sch. para. 3)

Marginal Citations

M43 1975 c. 76.
M44 1967 c. 88.
M45 1990 c. 9.
M46 1990 c. 8.

71 Applications by two or more landlords or by representative bodies.

(1) Where, on a joint application made by two or more persons as landlords of neighbouring areas, it appears to a leasehold valuation tribunal—

(a) that a scheme could in accordance with subsections (1) and (2) of section 70 be approved as an estate management scheme for 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 the scheme to co-operate in the management of their property in those areas and in the administration of the scheme,

the tribunal may (subject to the provisions of section 70 and subsection (2) below) approve the scheme under that section as an estate management scheme for those areas as a whole.

(2) Any such scheme 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 mentioned in subsection (1)(b) above.

(3) Where it appears to a leasehold valuation tribunal—

(a) that a scheme could, on the application of any landlord or landlords, be approved under section 70 as an estate management scheme for any area or areas, and

(b) that any body of persons—

(i) is so constituted as to be capable of representing for the purposes of the scheme the persons occupying or interested in property in the area or areas (other than the landlord or landlords or his or their licensees), or such of them as are or may become entitled to acquire their landlord's interest as mentioned in section 69(1)(a) or (b), and

(ii) is otherwise suitable,

an application for the approval of the scheme under section 70 may be made to the tribunal by the representative body alone or by the landlord or landlords alone or by both jointly and, by leave of the tribunal, may be proceeded with by the representative body or by the landlord or landlords despite the fact that the body or landlord or landlords in question did not make the application.

(4) Without prejudice to section 69(4)(b), any such scheme may with the consent of the landlord or landlords, or on such terms as to compensation or otherwise as appear to the tribunal to be just—

(a) 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

(b) 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.

(5) Where any such scheme confers any rights or powers on the representative body in accordance with subsection (4) above, section 70(11) and (12)(a) shall have effect with such modifications (if any) as are provided for in the scheme.

72 Applications after expiry of two-year period.

(1) An application for the approval of a scheme for an area under section 70 (including an application in accordance with section 71(1) or (3)) may be made after the expiry of the period mentioned in subsection (1) of that section if the Secretary of State has, not more than six months previously, consented to the making of such an application for that area or for an area within which that area falls.

(2) The Secretary of State may give consent under subsection (1) to the making of an application ("the proposed application") only where he is satisfied—

(a) that either or both of the conditions mentioned in subsection (3) apply; and

(b) that adequate notice has been given to persons interested informing them of the request for consent and the purpose of the request.

(3) The conditions referred to in subsection (2)(a) are—

(a) that the proposed application could not have been made before the expiry of the period mentioned in section 70(1); and

(b) that—

(i) any application for the approval under section 70 of a scheme for the area, or part of the area, to which the proposed application relates would probably have been dismissed under section 70(10)(a) had it been made before the expiry of that period; but

(ii) because of a change in any of the circumstances required to be considered under section 70(3) the proposed application would, if made following the giving of consent by the Secretary of State, probably be granted.

(4) A request for consent under subsection (1) must be in writing and must comply with such requirements (if any) as to the form of, or the particulars to be contained in, any such request as the Secretary of State may by regulations prescribe.

(5) The procedure for considering a request for consent under subsection (1) shall be such as may be prescribed by regulations made by the Secretary of State.

73 Applications by certain public bodies.

(1) Where it appears to a leasehold valuation tribunal after the expiry of the period mentioned in section 70(1) that a scheme could, on the application of any landlord or landlords within that period, have been approved under section 70 as an estate management scheme for any area or areas within a conservation area, an application for the approval of the scheme under that section may, subject to subsections (2) and (3) below, be made to the tribunal by one or more bodies constituting the relevant authority for the purposes of this section.

(2) An application under subsection (1) may only be made if—

(a) no scheme has been approved under section 70 for the whole or any part of the area or areas to which the application relates ("the scheme area"); and

(b) any application which has been made in accordance with section 70(1), 71(1) or 71(3) for the approval of a scheme for the whole or any part of the scheme area has been withdrawn or dismissed; and

(c) no request for consent under section 72(1) which relates to the whole or any part of the scheme area is pending or has been granted within the last six months.

(3) An application under subsection (1) above must be made within the period of six months beginning—

(a) with the date on which the period mentioned in section 70(1) expires, or

(b) if any application has been made as mentioned in subsection (2)(b) above, with the date (or, as the case may be, the latest date) on which any such application is withdrawn or dismissed,

whichever is the later; but if at any time during that period of six months a request of a kind mentioned in subsection (2)(c) above is pending or granted, an application under subsection (1) above may, subject to subsection (2) above, be made within the period of—

(i) six months beginning with the date on which the request is withdrawn or refused, or

(ii) twelve months beginning with the date on which the request is granted,

as the case may be.

(4) A scheme approved on an application under subsection (1) may confer on the applicant or applicants any such rights or powers under the scheme as might have been conferred on the landlord or landlords for the time being.

(5) For the purposes of this section the relevant authority for the scheme area is—

(a) where that area falls wholly within the area of a local planning authority—

(i) that authority; or

(ii) subject to subsection (6), that authority acting jointly with the Historic Buildings and Monuments Commission for England ("the Commission"); or

(iii) subject to subsection (6), the Commission; or

(b) in any other case—

(i) all of the local planning authorities within each of whose areas any part of the scheme area falls, acting jointly; or

(ii) subject to subsection (6), one or more of those authorities acting jointly with the Commission; or

(iii) subject to subsection (6), the Commission.

(6) The Commission may make, or join in the making of, an application under subsection (1) only if—

(a) the whole of the scheme area is in England; and

(b) they have consulted any local planning authority within whose area the whole or any part of the scheme area falls.

(7) Where a scheme is approved on an application under subsection (1) by two or more bodies acting jointly, the scheme shall, if the tribunal considers it appropriate, be made

subject to conditions (enforceable in such manner as may be provided by the scheme) for securing that those bodies co-operate in the administration of the scheme.

(8) Where a scheme is approved on an application under subsection (1)—

(a) section 70(11) and (12)(a) shall (subject to subsection (9) below) have effect as if any reference to the landlord, or the landlord for the time being, for the area for which an estate management scheme has been approved were a reference to the applicant or applicants; and

(b) section 70(12)(b) and (c) shall each have effect with the omission of so much of that provision as relates to the adjustment of any such price as is there mentioned.

(9) A scheme so approved shall not be enforceable by a local planning authority in relation to any property falling outside the authority's area; and in the case of a scheme approved on a joint application made by one or more local planning authorities and the Commission, the scheme may provide for any of its provisions to be enforceable in relation to property falling within the area of a local planning authority either by the authority alone, or by the Commission alone, or by the authority and the Commission acting jointly, as the scheme may provide.

(10) For the purposes of—

(a) section 9(1A) of the [M47]Leasehold Reform Act 1967 (purchase price on enfranchisement) as it applies in relation to any acquisition such as is mentioned in section 69(1)(a) above, and

(b) paragraph 3 of Schedule 6 to this Act as it applies in relation to any acquisition such as is mentioned in section 69(1)(b) above (including that paragraph as it applies by virtue of paragraph 7 or 11 of that Schedule),

it shall be assumed that any scheme approved under subsection (1) and relating to the property in question had not been so approved, and accordingly any application for such a scheme to be approved, and the possibility of such an application being made, shall be disregarded.

(11) Section 70(14) applies for the purposes of this section.

Marginal Citations

M47 1967 c. 88.

74 Effect of application for approval on claim to acquire freehold.

(1) Subject to subsections (5) and (6), this subsection applies where—

(a) an application ("the scheme application") is made for the approval of a scheme as an estate management scheme for any area or a request ("the request for consent") is made for consent under section 72(1) in relation to any area, and

(b) whether before or after the making of the application or request—

(i) the tenant of a house in that area gives notice of his desire to have the freehold under Part I of the [M48]Leasehold Reform Act 1967, [F84]. . .

(ii) a notice is given under section 13 above in respect of any premises in the area [[F85]and

(c) in the case of an application for the approval of a scheme as an estate management scheme, the scheme would extend to the house or premises if acquired in pursuance of the notice.**]**

(2) Where subsection (1) applies by virtue of paragraph (b)(i) of that subsection, then—

(a) no further steps need be taken towards the execution of a conveyance to give effect to section 10 of the 1967 Act beyond those which appear to the landlord to be reasonable in the circumstances; and

(b) if the notice referred to in subsection (1)(b)(i) ("the tenant's notice") was given before the making of the scheme application or the request for consent, that notice may be withdrawn by a further notice given by the tenant to the landlord.

(3) Where subsection (1) applies by virtue of paragraph (b)(ii) of that subsection, then—

(a) if the notice referred to in that provision ("the initial notice") was given before the making of the scheme application or the request for consent, the notice may be withdrawn by a further notice given by the nominee purchaser to the reversioner;

(b) unless the initial notice is so withdrawn, the reversioner shall, if he has not already given the nominee purchaser a counter-notice under section 21, give him by the date referred to in subsection (1) of that section a counter-notice which complies with one of the requirements set out in subsection (2) of that section (but in relation to which subsection (3) of that section need not be complied with); and

(c) no proceedings shall be brought under Chapter I in pursuance of the initial notice otherwise than under section 22 or 23, and, if the court under either of those sections makes an order requiring the reversioner to give a further counter-notice to the nominee purchaser, the date by which it is to be given shall be such date as falls two months after subsection (1) above ceases to apply;

but no other counter-notice need be given under Chapter I, and (subject to the preceding provisions of this subsection) no further steps need be taken towards the final determination (whether by agreement or otherwise) of the terms of the proposed acquisition by the nominee purchaser beyond those which appear to the reversioner to be reasonable in the circumstances.

(4) If the tenant's notice or the initial notice is withdrawn in accordance with subsection (2) or (3) above, section 9(4) of the 1967 Act or (as the case may be) section 33 above shall not have effect to require the payment of any costs incurred in pursuance of that notice.

(5) Where the scheme application is withdrawn or dismissed, subsection (1) does not apply at any time falling after—

(a) the date of the withdrawal of the application, or

(b) the date when the decision of the tribunal dismissing the application becomes final,

as the case may be; and subsection (1) does not apply at any time falling after the date on which a scheme is approved for the area referred to in that subsection, or for any part of it, in pursuance of the scheme application.

(6) Where the request for consent is withdrawn or refused, subsection (1) does not apply at any time falling after the date on which the request is withdrawn or refused, as the case may be; and where the request is granted, subsection (1) does not apply at any

time falling more than six months after the date on which it is granted (unless that subsection applies by virtue of an application made in reliance on the consent).

(7) Where, in accordance with subsection (5) or (6), subsection (1) ceases to apply as from a particular date, it shall do so without prejudice to—

(a) the effect of anything done before that date in pursuance of subsection (2) or (3); or

(b) the operation of any provision of this Part, or of regulations made under it, in relation to anything so done.

(8) If, however, no notice of withdrawal has been given in accordance with subsection (3) before the date when subsection (1) so ceases to apply and before that date either—

(a) the reversioner has given the nominee purchaser a counter-notice under section 21 complying with the requirement set out in subsection (2)(a) of that section, or

(b) section 23(6) would (but for subsection (3) above) have applied to require the reversioner to give a further counter-notice to the nominee purchaser,

the reversioner shall give a further counter-notice to the nominee purchaser within the period of two months beginning with the date when subsection (1) ceases to apply.

(9) Subsections (3) to (5) of section 21 shall apply to any further counter-notice required to be given by the reversioner under subsection (8) above as if it were a counter-notice under that section complying with the requirement set out in subsection (2)(a) of that section; and sections 24 and 25 shall apply in relation to any such counter-notice as they apply in relation to one required by section 22(3).

(10) In this section—

"the 1967 Act" means the [M49]Leasehold Reform Act 1967; and

"the nominee purchaser" and "the reversioner" have the same meaning as in Chapter I of this Part of this Act;

and references to the approval of a scheme for any area include references to the approval of a scheme for two or more areas in accordance with section 71 or 73 above.

Textual Amendments

F84 Words in s. 74(1)(b)(i) omitted (1.4.1997) by virtue of 1996 c. 52, **s. 118(1)(4)(a)**; S.I. 1997/618, **art. 2(1)** (with transitional savings in art. 2, Sch. para. 3)

F85 Word 'and' and s. 74(1)(c) inserted (1.4.1997) by 1996 c. 52, **s. 118(1)(4)(b)**; S.I. 1997/618, **art. 2(1)** (with transitional savings in art. 2, Sch. para. 3)

Marginal Citations

M48 1967 c. 88.

M49 1967 c. 88.

75 Variation of existing schemes.

(1) Where a scheme under section 19 of the [M50]Leasehold Reform Act 1967 (estate management schemes in connection with enfranchisement under that Act) includes, in pursuance of subsection (6) of that section, provision for enabling the termination or variation of the scheme, or the exclusion of part of the area of the scheme, by or with the approval of the High Court, that provision shall have effect—

(a) as if any reference to the High Court were a reference to a leasehold valuation tribunal, and

(b) with such modifications (if any) as are necessary in consequence of paragraph (a).

(2) A scheme under that section may be varied by or with the approval of a leasehold valuation tribunal for the purpose of, or in connection with, extending the scheme to property within the area of the scheme in which the landlord's interest may be acquired as mentioned in section 69(1)(a) above.

(3) Where any such scheme has been varied in accordance with subsection (2) above, section 19 of that Act shall apply as if the variation had been effected under provisions included in the scheme in pursuance of subsection (6) of that section (and accordingly the scheme may be further varied under provisions so included).

(4) Any application made under or by virtue of this section to a leasehold valuation tribunal shall comply with such requirements (if any) as to the form of, or the particulars to be contained in, any such application as the Secretary of State may by regulations prescribe.

(5) In this section any reference to a leasehold valuation tribunal is a reference to such a rent assessment committee as is mentioned in section 142(2) of the [M51]Housing Act 1980 (leasehold valuation tribunals).

Commencement Information

I4 S. 75 wholly in force; s. 75 not in force at Royal Assent see s. 188(2); s. 75 in force for certain purposes at 2.9.1993 by S.I. 1993/2134, **art. 3**; s. 75 in force at 1.11.1993 in so far as it was not in force, by S.I. 1993/2134, **art. 5(a)**

Marginal Citations

M50 1967 c. 88.

M51 1980 c. 51.

CHAPTER V

TENANTS' RIGHT TO MANAGEMENT AUDIT

76 Right to audit management by landlord.

(1) This Chapter has effect to confer on two or more qualifying tenants of dwellings held on leases from the same landlord the right, exercisable subject to and in accordance with this Chapter, to have an audit carried out on their behalf which relates to the management of the relevant premises and any appurtenant property by or on behalf of the landlord.

(2) That right shall be exercisable—

(a) where the relevant premises consist of or include two dwellings let to qualifying tenants of the same landlord, by either or both of those tenants; and

(b) where the relevant premises consist of or include three or more dwellings let to qualifying tenants of the same landlord, by not less than two-thirds of those tenants;

and in this Chapter the dwellings let to those qualifying tenants are referred to as "the constituent dwellings".

(3) In relation to an audit on behalf of two or more qualifying tenants—

(a) "the relevant premises" means so much of—

(i) the building or buildings containing the dwellings let to those tenants, and

(ii) any other building or buildings,

as constitutes premises in relation to which management functions are discharged in respect of the costs of which common service charge contributions are payable under the leases of those qualifying tenants; and

(b) "appurtenant property" means so much of any property not contained in the relevant premises as constitutes property in relation to which any such management functions are discharged.

(4) This Chapter also has effect to confer on a single qualifying tenant of a dwelling the right, exercisable subject to and in accordance with this Chapter, to have an audit carried out on his behalf which relates to the management of the relevant premises and any appurtenant property by or on behalf of the landlord.

(5) That right shall be exercisable by a single qualifying tenant of a dwelling where the relevant premises contain no other dwelling let to a qualifying tenant apart from that let to him.

(6) In relation to an audit on behalf of a single qualifying tenant—

(a) "the relevant premises" means so much of—

(i) the building containing the dwelling let to him, and

(ii) any other building or buildings,

as constitutes premises in relation to which management functions are discharged in respect of the costs of which a service charge is payable under his lease (whether as a common service charge contribution or otherwise); and

(b) "appurtenant property" means so much of any property not contained in the relevant premises as constitutes property in relation to which any such management functions are discharged.

(7) The provisions of sections 78 to 83 shall, with any necessary modifications, have effect in relation to an audit on behalf of a single qualifying tenant as they have effect in relation to an audit on behalf of two or more qualifying tenants.

(8) For the purposes of this section common service charge contributions are payable by two or more persons under their leases if they may be required under the terms of those leases to contribute to the same costs by the payment of service charges.

77 Qualifying tenants.

(1) Subject to the following provisions of this section, a tenant is a qualifying tenant of a dwelling for the purposes of this Chapter if—

(a) he is a tenant of the dwelling under a long lease other than a business lease; and

(b) any service charge is payable under the lease.

(2) For the purposes of subsection (1) a lease is a long lease if—

(a) it is a lease falling within any of paragraphs (a) to (c) of subsection (1) of section 7; or

(b) it is a shared ownership lease (within the meaning of that section), whether granted in pursuance of Part V of the [M52]Housing Act 1985 or otherwise and whatever the share of the tenant under it.

(3) No dwelling shall have more than one qualifying tenant at any one time.

(4) Accordingly—

(a) where a dwelling is for the time being let under two or more leases falling within subsection (1), any tenant under any of those leases which is superior to that held by any other such tenant shall not be a qualifying tenant of the dwelling for the purposes of this Chapter; and

(b) where a dwelling is for the time being let to joint tenants under a lease falling within subsection (1), the joint tenants shall (subject to paragraph (a)) be regarded for the purposes of this Chapter as jointly constituting the qualifying tenant of the dwelling.

(5) A person can, however, be (or be among those constituting) the qualifying tenant of each of two or more dwellings at the same time, whether he is tenant of those dwellings under one lease or under two or more separate leases.

(6) Where two or more persons constitute the qualifying tenant of a dwelling in accordance with subsection (4)(b), any one or more of those persons may sign a notice under section 80 on behalf of both or all of them.

Marginal Citations

M52 1985 c. 68.

78 Management audits.

(1) The audit referred to in section 76(1) is an audit carried out for the purpose of ascertaining—

(a) the extent to which the obligations of the landlord which—

(i) are owed to the qualifying tenants of the constituent dwellings, and

(ii) involve the discharge of management functions in relation to the relevant premises or any appurtenant property,

are being discharged in an efficient and effective manner; and

(b) the extent to which sums payable by those tenants by way of service charges are being applied in an efficient and effective manner;

and in this Chapter any such audit is referred to as a "management audit".

(2) In determining whether any such obligations as are mentioned in subsection (1)(a) are being discharged in an efficient and effective manner, regard shall be had to any applicable provisions of any code of practice for the time being approved by the Secretary of State under section 87.

(3) A management audit shall be carried out by a person who—

(a) is qualified for appointment by virtue of subsection (4); and

(b) is appointed—

(i) in the circumstances mentioned in section 76(2)(a), by either or both of the qualifying tenants of the constituent dwellings, or

(ii) in the circumstances mentioned in section 76(2)(b), by not less than two-thirds of the qualifying tenants of the constituent dwellings;

and in this Chapter any such person is referred to as "the auditor".

(4) A person is qualified for appointment for the purposes of subsection (3) above if—

(a) he has the necessary qualification (within the meaning of subsection (1) of section 28 of the 1985 Act (meaning of "qualified accountant")) or is a qualified surveyor;

(b) he is not disqualified from acting (within the meaning of that subsection); and

(c) he is not a tenant of any premises contained in the relevant premises.

(5) For the purposes of subsection (4)(a) above a person is a qualified surveyor if he is a fellow or professional associate of the Royal Institution of Chartered Surveyors or of the Incorporated Society of Valuers and Auctioneers or satisfies such other requirement or requirements as may be prescribed by regulations made by the Secretary of State.

(6) The auditor may appoint such persons to assist him in carrying out the audit as he thinks fit.

79 Rights exercisable in connection with management audits.

(1) Where the qualifying tenants of any dwellings exercise under section 80 their right to have a management audit carried out on their behalf, the rights conferred on the auditor by subsection (2) below shall be exercisable by him in connection with the audit.

(2) The rights conferred on the auditor by this subsection are—

(a) a right to require the landlord—

(i) to supply him with such a summary as is referred to in section 21(1) of the 1985 Act (request for summary of relevant costs) in connection with any service charges payable by the qualifying tenants of the constituent dwellings, and

(ii) to afford him reasonable facilities for inspecting, or taking copies of or extracts from, the accounts, receipts and other documents supporting any such summary;

(b) a right to require the landlord or any relevant person to afford him reasonable facilities for inspecting any other documents sight of which is reasonably required by him for the purpose of carrying out the audit; and

(c) a right to require the landlord or any relevant person to afford him reasonable facilities for taking copies of or extracts from any documents falling within paragraph (b).

(3) The rights conferred on the auditor by subsection (2) shall be exercisable by him—

(a) in relation to the landlord, by means of a notice under section 80; and

(b) in relation to any relevant person, by means of a notice given to that person at (so far as is reasonably practicable) the same time as a notice under section 80 is given to the landlord;

and, where a notice is given to any relevant person in accordance with paragraph (b) above, a copy of that notice shall be given to the landlord by the auditor.

(4) The auditor shall also be entitled, on giving notice in accordance with section 80, to carry out an inspection of any common parts comprised in the relevant premises or any appurtenant property.

(5) The landlord or (as the case may be) any relevant person shall—

(a) where facilities for the inspection of any documents are required under subsection (2)(a)(ii) or (b), make those facilities available free of charge;

(b) where any documents are required to be supplied under subsection (2)(a)(i) or facilities for the taking of copies or extracts are required under subsection (2)(a)(ii) or (c), be entitled to supply those documents or (as the case may be) make those facilities available on payment of such reasonable charge as he may determine.

(6) The requirement imposed on the landlord by subsection (5)(a) to make any facilities available free of charge shall not be construed as precluding the landlord from treating as part of his costs of management any costs incurred by him in connection with making those facilities so available.

(7) In this Chapter "relevant person" means a person (other than the landlord) who—

(a) is charged with responsibility—

(i) for the discharge of any such obligations as are mentioned in section 78(1)(a), or

(ii) for the application of any such service charges as are mentioned in section 78(1)(b); or

(b) has a right to enforce payment of any such service charges.

(8) In this Chapter references to the auditor in the context of—

(a) being afforded any such facilities as are mentioned in subsection (2), or

(b) the carrying out of any inspection under subsection (4),

shall be read as including a person appointed by the auditor under section 78(6).

80 Exercise of right to have a management audit.

(1) The right of any qualifying tenants to have a management audit carried out on their behalf shall be exercisable by the giving of a notice under this section.

(2) A notice given under this section—

(a) must be given to the landlord by the auditor, and

(b) must be signed by each of the tenants on whose behalf it is given.

(3) Any such notice must—

(a) state the full name of each of those tenants and the address of the dwelling of which he is a qualifying tenant;

(b) state the name and address of the auditor;

(c) specify any documents or description of documents—

(i) which the landlord is required to supply to the auditor under section 79(2)(a)(i), or

(ii) in respect of which he is required to afford the auditor facilities for inspection or for taking copies or extracts under any other provision of section 79(2); and

(d) if the auditor proposes to carry out an inspection under section 79(4), state the date on which he proposes to carry out the inspection.

(4) The date specified under subsection (3)(d) must be a date falling not less than one month nor more than two months after the date of the giving of the notice.

(5) A notice is duly given under this section to the landlord of any qualifying tenants if it is given to a person who receives on behalf of the landlord the rent payable by any such tenants; and a person to whom such a notice is so given shall forward it as soon as may be to the landlord.

81 Procedure following giving of notice under section 80.

(1) Where the landlord is given a notice under section 80, then within the period of one month beginning with the date of the giving of the notice, he shall—

(a) supply the auditor with any document specified under subsection (3)(c)(i) of that section, and afford him, in respect of any document falling within section 79(2)(a)(ii), any facilities specified in relation to it under subsection (3)(c)(ii) of section 80;

(b) in the case of every other document or description of documents specified in the notice under subsection (3)(c)(ii) of that section, either—

(i) afford the auditor facilities for inspection or (as the case may be) taking copies or extracts in respect of that document or those documents, or

(ii) give the auditor a notice stating that he objects to doing so for such reasons as are specified in the notice; and

(c) if a date is specified in the notice under subsection (3)(d) of that section, either approve the date or propose another date for the carrying out of an inspection under section 79(4).

(2) Any date proposed by the landlord under subsection (1)(c) must be a date falling not later than the end of the period of two months beginning with the date of the giving of the notice under section 80.

(3) Where a relevant person is given a notice under section 79 requiring him to afford the auditor facilities for inspection or taking copies or extracts in respect of any documents or description of documents specified in the notice, then within the period of one month beginning with the date of the giving of the notice, he shall, in the case of every such document or description of documents, either—

(a) afford the auditor the facilities required by him; or

(b) give the auditor a notice stating that he objects to doing so for such reasons as are specified in the notice.

(4) If by the end of the period of two months beginning with—

(a) the date of the giving of the notice under section 80, or

(b) the date of the giving of such a notice under section 79 as is mentioned in subsection (3) above,

the landlord or (as the case may be) a relevant person has failed to comply with any requirement of the notice, the court may, on the application of the auditor, make an order requiring the landlord or (as the case may be) the relevant person to comply with that requirement within such period as is specified in the order.

(5) The court shall not make an order under subsection (4) in respect of any document or documents unless it is satisfied that the document or documents falls or fall within paragraph (a) or (b) of section 79(2).

(6) If by the end of the period of two months specified in subsection (2) no inspection under section 79(4) has been carried out by the auditor, the court may, on the application of the auditor, make an order providing for such an inspection to be carried out on such date as is specified in the order.

(7) Any application for an order under subsection (4) or (6) must be made before the end of the period of four months beginning with—

(a) in the case of an application made in connection with a notice given under section 80, the date of the giving of that notice; or

(b) in the case of an application made in connection with such a notice under section 79 as is mentioned in subsection (3) above, the date of the giving of that notice.

82 Requirement relating to information etc. held by superior landlord.

(1) Where the landlord is required by a notice under section 80 to supply any summary falling within section 79(2)(a), and any information necessary for complying with the notice so far as relating to any such summary is in the possession of a superior landlord—

(a) the landlord shall make a written request for the relevant information to the person who is his landlord (and so on, if that person is himself not the superior landlord);

(b) the superior landlord shall comply with that request within the period of one month beginning with the date of the making of the request; and

(c) the landlord who received the notice shall then comply with it so far as relating to any such summary within the time allowed by section 81(1) or such further time, if any, as is reasonable.

(2) Where—

(a) the landlord is required by a notice under section 80 to afford the auditor facilities for inspection or taking copies or extracts in respect of any documents or description of documents specified in the notice, and

(b) any of the documents in question is in the custody or under the control of a superior landlord,

the landlord shall on receiving the notice inform the auditor as soon as may be of that fact and of the name and address of the superior landlord, and the auditor may then give the superior landlord a notice requiring him to afford the facilities in question in respect of the document.

(3) Subsections (3) to (5) and (7) of section 81 shall, with any necessary modifications, have effect in relation to a notice given to a superior landlord under subsection (2) above as they have effect in relation to any such notice given to a relevant person as is mentioned in subsection (3) of that section.

83 Supplementary provisions.

(1) Where—

(a) a notice has been given to a landlord under section 80, and

(b) at a time when any obligations arising out of the notice remain to be discharged by him—

(i) he disposes of the whole or part of his interest as landlord of the qualifying tenants of the constituent dwellings, and

(ii) the person acquiring any such interest of the landlord is in a position to discharge any of those obligations to any extent,

that person shall be responsible for discharging those obligations to that extent, as if he had been given the notice under that section.

(2) If the landlord is, despite any such disposal, still in a position to discharge those obligations to the extent referred to in subsection (1), he shall remain responsible for so discharging them; but otherwise the person referred to in that subsection shall be responsible for so discharging them to the exclusion of the landlord.

(3) Where a person is so responsible for discharging any such obligations (whether with the landlord or otherwise)—

(a) references to the landlord in section 81 shall be read as including, or as, references to that person to such extent as is appropriate to reflect his responsibility for discharging those obligations; but

(b) in connection with the discharge of any such obligations by that person, that section shall apply as if any reference to the date of the giving of the notice under section 80 were a reference to the date of the disposal referred to in subsection (1).

(4) Where—

(a) a notice has been given to a relevant person under section 79, and

(b) at a time when any obligations arising out of the notice remain to be discharged by him, he ceases to be a relevant person, but

(c) he is, despite ceasing to be a relevant person, still in a position to discharge those obligations to any extent,

he shall nevertheless remain responsible for discharging those obligations to that extent; and section 81 shall accordingly continue to apply to him as if he were still a relevant person.

(5) Where—

(a) a notice has been given to a landlord under section 80, or

(b) a notice has been given to a relevant person under section 79,

then during the period of twelve months beginning with the date of that notice, no subsequent such notice may be given to the landlord or (as the case may be) that person on behalf of any persons who, in relation to the earlier notice, were qualifying tenants of the constituent dwellings.

84 Interpretation of Chapter V.

In this Chapter—

"the 1985 Act" means the [M53]Landlord and Tenant Act 1985;

"appurtenant property" shall be construed in accordance with section 76(3) or (6);

"the auditor", in relation to a management audit, means such a person as is mentioned in section 78(3);

"the constituent dwellings" means the dwellings referred to in section 76(2)(a) or (b) (as the case may be);

"landlord" means immediate landlord;

"management audit" means such an audit as is mentioned in section 78(1);

"management functions" includes functions with respect to the provision of services or the repair, maintenance or insurance of property;

"relevant person" has the meaning given by section 79(7);

"the relevant premises" shall be construed in accordance with section 76(3) or (6);

"service charge" has the meaning given by section 18(1) of the 1985 Act.

Marginal Citations

M53 1985 c. 70.

CHAPTER VI

MISCELLANEOUS

Compulsory acquisition of landlord's interest

85 Amendment of Part III of Landlord and Tenant Act 1987.

(1) Part III of the [M54]Landlord and Tenant Act 1987 (compulsory acquisition by tenants of their landlord's interest) shall be amended as follows.

(2) In section 25 (compulsory acquisition of landlord's interest by qualifying tenants)—

(a) for subsection (2)(c) there shall be substituted—

"(c) the total number of flats held by such tenants is not less than two-thirds of the total number of flats contained in the premises."; and

(b) subsection (3) shall be omitted.

(3) In section 27(4) (meaning of requisite majority in relation to qualifying tenants), for "more than 50 per cent." there shall be substituted " not less than two-thirds ".

(4) In section 29(2) (conditions for making acquisition orders), the words from "and (c)" onwards shall be omitted.

Commencement Information

I5 S. 85 wholly in force at 1.11.1993 (subject to transitional provisions and savings in Sch. 1 to S.I. 1993/2134) see **s. 188(2)** and S.I. 1993/2134, **art. 5(b)**

Marginal Citations

M54 1987 c. 31.

Variation of leases

86 Variation of leases under Part IV of Landlord and Tenant Act 1987.

In section 35(4) of the Landlord and Tenant Act 1987 (variation of lease on grounds that it fails to make satisfactory provision with respect to the computation of a service charge), in paragraph (c), for "exceed" there shall be substituted " either exceed or be less than ".

Commencement Information

I6 S. 86 wholly in force at 1.11.1993 (subject to transitional provisions and savings in Sch. 1 to S.I. 1993/2134) see **s. 188(2)**, and S.I. 1993/2134, **art. 5(b)**

Codes of practice

87 Approval by Secretary of State of codes of management practice.

(1) The Secretary of State may, if he considers it appropriate to do so, by order—

(a) approve any code of practice—

(i) which appears to him to be designed to promote desirable practices in relation to any matter or matters directly or indirectly concerned with the management of residential property by relevant persons; and

(ii) which has been submitted to him for his approval;

(b) approve any modifications of any such code which have been so submitted; or

(c) withdraw his approval for any such code or modifications.

(2) The Secretary of State shall not approve any such code or any modifications of any such code unless he is satisfied that arrangements have been made for the text of the code or the modifications to be published in such manner as he considers appropriate for bringing the provisions of the code or the modifications to the notice of those likely to be affected by them (which, in the case of modifications of a code, may include publication of a text of the code incorporating the modifications).

(3) The power of the Secretary of State under this section to approve a code of practice which has been submitted to him for his approval includes power to approve a part of any such code; and references in this section to a code of practice may accordingly be read as including a reference to a part of a code of practice.

(4) At any one time there may be two or more codes of practice for the time being approved under this section.

(5) A code of practice approved under this section may make different provision with respect to different cases or descriptions of cases, including different provision for different areas.

(6) Without prejudice to the generality of subsections (1) and (5)—

(a) a code of practice approved under this section may, in relation to any such matter as is referred to in subsection (1), make provision in respect of relevant persons who are under an obligation to discharge any function in connection with that matter as well as in respect of relevant persons who are not under such an obligation; and

(b) any such code may make provision with respect to—

(i) the resolution of disputes with respect to residential property between relevant persons and the tenants of such property;

(ii) competitive tendering for works in connection with such property; and

(iii) the administration of trusts in respect of amounts paid by tenants by way of service charges.

(7) A failure on the part of any person to comply with any provision of a code of practice for the time being approved under this section shall not of itself render him liable to any proceedings; but in any proceedings before a court or tribunal—

(a) any code of practice approved under this section shall be admissible in evidence; and

(b) any provision of any such code which appears to the court or tribunal to be relevant to any question arising in the proceedings shall be taken into account in determining that question.

(8) For the purposes of this section—

(a) "relevant person" means any landlord of residential property or any person who discharges management functions in respect of such property, and for this purpose "management functions" includes functions with respect to the provision of services or the repair, maintenance or insurance of such property;

(b) "residential property" means any building or part of a building which consists of one or more dwellings let on leases, but references to residential property include—

(i) any garage, outhouse, garden, yard and appurtenances belonging to or usually enjoyed with such dwellings,

(ii) any common parts of any such building or part, and

(iii) any common facilities which are not within any such building or part; and

(c) "service charge" means an amount payable by a tenant of a dwelling as part of or in addition to the rent—

(i) which is payable, directly or indirectly, for services, repairs, maintenance or insurance or any relevant person's costs of management, and

(ii) the whole or part of which varies or may vary according to the costs or estimated costs incurred or to be incurred by any relevant person in connection with the matters mentioned in sub-paragraph (i).

(9) This section applies in relation to dwellings let on licences to occupy as it applies in relation to dwellings let on leases, and references in this section to landlords and tenants of residential property accordingly include references to licensors and licensees of such property.

Jurisdiction of leasehold valuation tribunals in relation to enfranchisement etc. of Crown land

88 Jurisdiction of leasehold valuation tribunals in relation to enfranchisement etc. of Crown land.

(1) This section applies where any tenant under a lease from the Crown is proceeding with a view to acquiring the freehold or an extended lease of a house and premises in

circumstances in which, but for the existence of any Crown interest in the land subject to the lease, he would be entitled to acquire the freehold or such an extended lease under Part I of the [M55]Leasehold Reform Act 1967.

(2) Where—

(a) this section applies in accordance with subsection (1), and

(b) any question arises in connection with the acquisition of the freehold or an extended lease of the house and premises which is such that, if the tenant were proceeding as mentioned in that subsection in pursuance of a claim made under Part I of that Act, a leasehold valuation tribunal constituted for the purposes of that Part of that Act would have jurisdiction to determine it in proceedings under that Part, and

(c) it is agreed between—

(i) the appropriate authority and the tenant, and

(ii) all other persons (if any) whose interests would fall to be represented in proceedings brought under that Part for the determination of that question by such a tribunal,

that that question should be determined by such a tribunal,

a rent assessment committee constituted for the purposes of this section shall have jurisdiction to determine that question.

(3) A rent assessment committee shall, when constituted for the purposes of this section, be known as a leasehold valuation tribunal.

(4) Paragraphs 1 to 3 of Schedule 22 to the [M56]Housing Act 1980 (provisions relating to leasehold valuation tribunals constituted for the purposes of Part I of the [M57]Leasehold Reform Act 1967) shall apply to a leasehold valuation tribunal constituted for the purposes of this section.

(5) Any application made to such a leasehold valuation tribunal must comply with such requirements (if any) as to the form of, or the particulars to be contained in, any such application as the Secretary of State may by regulations prescribe.

(6) For the purposes of this section "lease from the Crown" means a lease of land in which there is, or has during the subsistence of the lease been, a Crown interest superior to the lease; 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.

(7) In this section any reference to a leasehold valuation tribunal constituted for the purposes of Part I of the Leasehold Reform Act 1967 is a reference to such a rent assessment committee as is mentioned in section 142(2) of the Housing Act 1980 (leasehold valuation tribunals).

Commencement Information

I7 S. 88 wholly in force; s. 88 not in force at Royal Assent see s. 188(2); s. 88 in force for certain purposes at 2.9.1993 by S.I. 1993/2134, **art. 3**; s. 88 in force at 1.11.1993 in so far as it was not already in force, by S.I. 1993/2134, **art. 5(a)**

Marginal Citations

M55 1967 c. 88.
M56 1980 c. 51.
M57 1967 c. 88.

Provision of accommodation for persons with mental disorders

89 Avoidance of provisions preventing occupation of leasehold property by persons with mental disorders.

(1) Any agreement relating to a lease of any property which comprises or includes a dwelling (whether contained in the instrument creating the lease or not and whether made before the creation of the lease or not) shall be void in so far as it would otherwise have the effect of prohibiting or imposing any restriction on—

(a) the occupation of the dwelling, or of any part of the dwelling, by persons with mental disorders (within the meaning of the [M58]Mental Health Act 1983), or

(b) the provision of accommodation within the dwelling for such persons.

(2) Subsection (1) applies to any agreement made after the coming into force of this section.

Marginal Citations

M58 1983 c. 20.

CHAPTER VII

GENERAL

90 Jurisdiction of county courts.

(1) Any jurisdiction expressed to be conferred on the court by this Part shall be exercised by a county court.

(2) There shall also be brought in a county court any proceedings for determining any question arising under or by virtue of any provision of Chapter I or II or this Chapter which is not a question falling within its jurisdiction by virtue of subsection (1) or one falling within the jurisdiction of a leasehold valuation tribunal by virtue of section 91.

(3) Where, however, there are brought in the High Court any proceedings which, apart from this subsection, are proceedings within the jurisdiction of the High Court, the High Court shall have jurisdiction to hear and determine any proceedings joined with those proceedings which are proceedings within the jurisdiction of a county court by virtue of subsection (1) or (2).

(4) Where any proceedings are brought in a county court by virtue of subsection (1) or (2), the court shall have jurisdiction to hear and determine any other proceedings joined with those proceedings, despite the fact that, apart from this subsection, those other proceedings would be outside the court's jurisdiction.

91 Jurisdiction of leasehold valuation tribunals.

(1) Any jurisdiction expressed to be conferred on a leasehold valuation tribunal by the provisions of this Part (except section 75 or 88) shall be exercised by a rent assessment committee constituted for the purposes of this section; and any question arising in relation to any of the matters specified in subsection (2) shall, in default of agreement, be determined by such a rent assessment committee.

(2) Those matters are—

(a) the terms of acquisition relating to—

(i) any interest which is to be acquired by a nominee purchaser in pursuance of Chapter I, or

(ii) any new lease which is to be granted to a tenant in pursuance of Chapter II,

including in particular any matter which needs to be determined for the purposes of any provision of Schedule 6 or 13;

(b) the terms of any lease which is to be granted in accordance with section 36 and Schedule 9;

(c) the amount of any payment falling to be made by virtue of section 18(2);

[[F86](ca) the amount of any compensation payable under section 37A;**]**

[[F87](cb) the amount of any compensation payable under section 61A;**]**

(d) the amount of any costs payable by any person or persons by virtue of any provision of Chapter I or II and, in the case of costs to which section 33(1) or 60(1) applies, the liability of any person or persons by virtue of any such provision to pay any such costs; and

(e) the apportionment between two or more persons of any amount (whether of costs or otherwise) payable by virtue of any such provision.

(3) A rent assessment committee shall, when constituted for the purposes of this section, be known as a leasehold valuation tribunal; and in the following provisions of this section references to a leasehold valuation tribunal are (unless the context otherwise requires) references to such a committee.

(4) Where in any proceedings before a court there falls for determination any question falling within the jurisdiction of a leasehold valuation tribunal by virtue of Chapter I or II or this section, the court—

(a) shall by order transfer to such a tribunal so much of the proceedings as relate to the determination of that question; and

(b) may then dispose of all or any remaining proceedings, or adjourn the disposal of all or any such proceedings pending the determination of that question by the tribunal, as it thinks fit;

and accordingly once that question has been so determined the court shall, if it is a question relating to any matter falling to be determined by the court, give effect to the determination in an order of the court.

(5) Without prejudice to the generality of any other statutory provision—

(a) the power to make regulations under section 74(1)(b) of the [M59]Rent Act 1977 (procedure of rent assessment committees) shall extend to prescribing the procedure to be followed consequent on a transfer under subsection (4) above; and

(b) rules of court may prescribe the procedure to be followed in connection with such a transfer.

(6) Any application made to a leasehold valuation tribunal under or by virtue of this Part must comply with such requirements (if any) as to the form of, or the particulars to be contained in, any such application as the Secretary of State may by regulations prescribe.

(7) In any proceedings before a leasehold valuation tribunal which relate to any claim made under Chapter I, the interests of the participating tenants shall be represented by the nominee purchaser, and accordingly the parties to any such proceedings shall not include those tenants.

(8) No costs which a party to any proceedings under or by virtue of this Part before a leasehold valuation tribunal incurs in connection with the proceedings shall be recoverable by order of any court (whether in consequence of a transfer under subsection (4) or otherwise).

(9) A leasehold valuation tribunal may, when determining the property in which any interest is to be acquired in pursuance of a notice under section 13 or 42, specify in its determination property which is less extensive than that specified in that notice.

(10) Paragraphs 1 to 3 and 7 of Schedule 22 to the [M60]Housing Act 1980 (provisions relating to leasehold valuation tribunals constituted for the purposes of Part I of the [M61]Leasehold Reform Act 1967) shall apply to a leasehold valuation tribunal constituted for the purposes of this section; but—

(a) in relation to any proceedings which relate to a claim made under Chapter I of this Part of this Act, paragraph 7 of that Schedule shall apply as if the nominee purchaser were included among the persons on whom a notice is authorised to be served under that paragraph; and

(b) in relation to any proceedings on an application for a scheme to be approved by a tribunal under section 70, paragraph 2(a) of that Schedule shall apply as if any person appearing before the tribunal in accordance with subsection (6) of that section were a party to the proceedings.

(11) In this section—

"the nominee purchaser" and "the participating tenants" have the same meaning as in Chapter I;

"the terms of acquisition" shall be construed in accordance with section 24(8) or section 48(7), as appropriate;

and the reference in subsection (10) to a leasehold valuation tribunal constituted for the purposes of Part I of the [M62]Leasehold Reform Act 1967 shall be construed in accordance with section 88(7) above.

Textual Amendments

F86 S. 91(2)(ca) inserted (1.10.1996) after para. (c) by 1996 c. 52, s. 116, **Sch. 11 para. 2(2)**; S.I. 1996/2212, **art. 2(2)**

F87 S. 91(2)(cb) inserted (1.10.1996) after para. (c) by 1996 c. 52, s. 116, **Sch. 11 para. 3(2)**; S.I. 1996/2212, **art. 2(2)**

Commencement Information

I8 S. 91 wholly in force; s. 91 not in force at Royal Assent see s. 188(2); s. 91 in force for certain purposes at 2.9.1993 by S.I. 1993/2134, **art. 3**; s. 91 in force at 1.11.1993 in so far as it was not in force, by S.I. 1993/2134, **art. 5(a)**

Marginal Citations

M59 1977 c. 42.
M60 1980 c. 51.
M61 1967 c. 88.
M62 1967 c. 88.

92 Enforcement of obligations under Chapters I and II.

(1) The court may, on the application of any person interested, make an order requiring any person who has failed to comply with any requirement imposed on him under or by virtue of any provision of Chapter I or II to make good the default within such time as is specified in the order.

(2) An application shall not be made under subsection (1) unless—

(a) a notice has been previously given to the person in question requiring him to make good the default, and

(b) more than 14 days have elapsed since the date of the giving of that notice without his having done so.

93 Agreements excluding or modifying rights of tenant under Chapter I or II.

(1) Except as provided by this section, any agreement relating to a lease (whether contained in the instrument creating the lease or not and whether made before the creation of the lease or not) shall be void in so far as it—

(a) purports to exclude or modify—

(i) any entitlement to participate in the making of a claim to exercise the right to collective enfranchisement under Chapter I,

(ii) any right to acquire a new lease under Chapter II, or

(iii) any right to compensation under section 61; or

(b) provides for the termination or surrender of the lease in the event of the tenant becoming a participating tenant for the purposes of Chapter I or giving a notice under section 42; or

(c) provides for the imposition of any penalty or disability on the tenant in that event.

(2) Subsection (1) shall not be taken to preclude a tenant from surrendering his lease, and shall not—

(a) invalidate any agreement for the acquisition on behalf of a tenant of an interest superior to his lease, or for the acquisition by a tenant of a new lease, on terms different from those provided by Chapters I and II; or

(b) where a tenant has become a participating tenant for the purposes of Chapter I or has given a notice under section 42, invalidate—

(i) any agreement that the notice given under section 13 or (as the case may be) section 42 shall cease to have effect, or

(ii) any provision of such an agreement excluding or restricting for a period not exceeding three years any such entitlement or right as is mentioned in subsection (1)(a)(i) or (ii); or

(c) where a tenant's right to compensation under section 61 has accrued, invalidate any agreement as to the amount of the compensation.

(3) Where—

(a) a tenant having the right to acquire a new lease under Chapter II—

(i) has entered into an agreement for the surrender of his lease without the prior approval of the court, or

(ii) has entered into an agreement for the grant of a new lease without any of the terms of acquisition (within the meaning of that Chapter) having been determined by a leasehold valuation tribunal under that Chapter, or

(b) a tenant has been granted a new lease under Chapter II or by virtue of subsection (4) below and, on his landlord claiming possession for the purposes of redevelopment, enters into an agreement without the prior approval of the court for the surrender of the lease,

then on the application of the tenant a county court, or any court in which proceedings are brought on the agreement, may, if in its opinion the tenant is not adequately recompensed under the agreement for his rights under Chapter II, set aside or vary the agreement and give such other relief as appears to it to be just having regard to the situation and conduct of the parties.

(4) Where a tenant has the right to acquire a new lease under Chapter II, there may with the approval of the court be granted to him in satisfaction of that right a new lease on such terms as may be approved by the court, which may include terms excluding or modifying—

(a) any entitlement to participate in the making of a claim to exercise the right to collective enfranchisement under Chapter I, or

(b) any right to acquire a further lease under Chapter II.

(5) Subject to the provisions specified in subsection (6) and to subsection (7), a lease may be granted by virtue of subsection (4), and shall if so granted be binding on persons entitled to any interest in or charge on the landlord's estate—

(a) despite the fact that, apart from this subsection, it would not be authorised against any such persons, and

(b) despite any statutory or other restrictions on the landlord's powers of leasing.

(6) The provisions referred to in subsection (5) are—

(a) section 36 of the [M63]Charities Act 1993 (restrictions on disposition of charity land); and

(b) paragraph 8(2)(c) of Schedule 2 to this Act.

(7) Where the existing lease of the tenant is granted after the commencement of Chapter II and, the grant being subsequent to the creation of a charge on the landlord's estate, the existing lease is not binding on the persons interested in the charge, a lease granted by virtue of subsection (4) shall not be binding on those persons.

(8) Where a lease is granted by virtue of subsection (4), then except in so far as provision is made to the contrary by the terms of the lease, the following provisions shall apply in relation to the lease as they apply in relation to a lease granted under section 56, namely—

(a) section 58(3), (5) and (6);

(b) section 59(2) to (5); and

(c) section 61 and Schedule 14;

and subsections (5) to (7) of section 56 shall apply in relation to the lease as they apply in relation to a lease granted under that section.

Marginal Citations

M63 1993 c. 10.

[F88 93A Powers of trustees in relation to rights under Chapters I and II.

(1) Where trustees are a qualifying tenant of a flat for the purposes of Chapter I or II, their powers under the instrument regulating the trusts shall include power to participate in the exercise of the right to collective enfranchisement under Chapter I or, as the case may be, to exercise the right to a new lease under Chapter II.

(2) Subsection (1) shall not apply where the instrument regulating the trusts—

(a) is made on or after the day on which section 113 of the Housing Act 1996 comes into force, and

(b) contains an explicit direction to the contrary.

(3) The powers conferred by subsection (1) shall be exercisable with the like consent or on the like direction (if any) as may be required for the exercise of the trustees' powers (or ordinary powers) of investment.

(4) The following purposes, namely—

(a) those authorised for the application of capital money by section 73 of the M64 Settled Land Act 1925 F89 . . ., and

(b) those authorised by section 71 of the Settled Land Act 1925 F89 . . . as purposes for which moneys may be raised by mortgage,

shall include the payment of any expenses incurred by a tenant for life or statutory owners F89 . . ., as the case may be, in or in connection with participation in the exercise of the right to collective enfranchisement under Chapter I or in or in connection with the exercise of the right to a new lease under Chapter II.]

Textual Amendments

F88 S. 93A inserted (1.10.1996) by 1996 c. 52, **s. 113**; S.I. 1996/2212, **art. 2(2)** (with savings in art. 2(2), Sch. para. 4(b))

F89 Words in s. 93A(4) repealed (1.1.1997) by 1996 c. 47, s. 25(2), **Sch.4** (with ss. 24(2), 25(4)); S.I. 1996/2974, **art.2**

Marginal Citations

M64 1925 c. 18.

94 Crown land.

(1) Subject to subsection (2), Chapters I and II shall apply to a lease from the Crown if (and only if) there has ceased to be a Crown interest in the land subject to it.

(2) Where a tenant under a lease from the Crown would, but for the existence of any Crown interest, be entitled to acquire a new lease under Chapter II, then if—

(a) that Crown interest is superior to the interest of the person who for the purposes of Chapter II is the landlord in relation to the lease, and

(b) either—

(i) that landlord is entitled to grant such a new lease without the concurrence of the appropriate authority, or

(ii) the appropriate authority notifies that landlord that, as regards any Crown interest affected, the authority will concur in granting such a new lease,

subsection (1) shall apply as if there had ceased to be any Crown interest in the land subject to the lease, and Chapter II shall apply accordingly.

(3) The restriction imposed by section 3(2) of the [M65]Crown Estate Act 1961 (general provisions as to management) on the term for which a lease may be granted by the Crown Estate Commissioners shall not apply where—

(a) the lease is granted by way of renewal of a long lease **[**[F90]which is at a low rent or for a particularly long term**]**, and

(b) it appears to the Crown Estate Commissioners that, but for the existence of any Crown interest, there would be a right to acquire a new lease under Chapter II of this Part of this Act.

(4) Where, in the case of land belonging—

(a) to Her Majesty in right of the Duchy of Lancaster, or

(b) to the Duchy of Cornwall,

it appears to the appropriate authority that a tenant under a long lease **[**[F91]which is at a low rent or for a particularly long term**]** would, but for the existence of any Crown interest, be entitled to acquire a new lease under Chapter II, 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 [M66]Duchy of Cornwall Management Act 1863 for the advancement of parts of such gross sums as are there mentioned shall include the payment to tenants under leases from the Crown of sums corresponding to those which, but for the existence of any Crown interest, would be payable by way of compensation under section 61 above.

(6) The appropriate authority in relation to any area occupied under leases from the Crown may make an application for the approval under section 70 of a scheme for that area which is designed to secure that, in the event of tenants under those leases acquiring freehold interests in such circumstances as are mentioned in subsection (7) below, the authority will—

(a) retain powers of management in respect of the premises in which any such freehold interests are acquired, and

(b) have rights against any such premises in respect of the benefits arising from the exercise elsewhere of the authority's powers of management.

(7) The circumstances mentioned in subsection (6) are circumstances in which, but for the existence of any Crown interest, the tenants acquiring any such freehold interests would be entitled to acquire them as mentioned in section 69(1)(a) or (b).

(8) Subject to any necessary modifications—

(a) subsections (2) to (7) of section 69 shall apply in relation to any such scheme as is mentioned in subsection (6) above as they apply in relation to an estate management scheme; and

(b) section 70 shall apply in relation to the approval of such a scheme as it applies in relation to the approval of a scheme as an estate management scheme.

(9) Subsection (10) applies where—

(a) any tenants under leases from the Crown are proceeding with a view to acquiring the freehold of any premises in circumstances in which, but for the existence of any Crown interest, they would be entitled to acquire the freehold under Chapter I, or

(b) any tenant under a lease from the Crown is proceeding with a view to acquiring a new lease of his flat in circumstances in which, but for the existence of any Crown interest, he would be entitled to acquire such a lease under Chapter II.

(10) Where—

(a) this subsection applies in accordance with subsection (9), and

(b) any question arises in connection with the acquisition of the freehold of those premises or any such new lease which is such that, if the tenants or tenant were proceeding as mentioned in that subsection in pursuance of a claim made under Chapter I or (as the case may be) Chapter II, a leasehold valuation tribunal would have jurisdiction to determine it in proceedings under that Chapter, and

(c) it is agreed between—

(i) the appropriate authority and the tenants or tenant, and

(ii) all other persons (if any) whose interests would fall to be represented in proceedings brought under that Chapter for the determination of that question by a leasehold valuation tribunal,

that that question should be determined by such a tribunal,

a leasehold valuation tribunal shall have jurisdiction to determine that question; and references in this subsection to a leasehold valuation tribunal are to such a tribunal constituted for the purposes of section 91.

(11) For the purposes of this section "lease from the Crown" means a lease of land in which there is, or has during the subsistence of the lease been, a Crown interest superior to the lease; 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.

[F92(12) For the purposes of this section "long lease which is at a low rent or for a particularly long term" shall be construed in accordance with sections 7, 8 and 8A.**]**

Textual Amendments

F90 Words in s. 94(3)(a) substituted (1.4.1997) by 1996 c. 52, s. 106, **Sch. 9 para. 5(2)**; S.I. 1997/618, **art. 2(1)** (with transitional savings in art. 2, Sch. para. 2)

F91 Words in s. 94(4) substituted (1.4.1997) by 1996 c. 52, s. 106, **Sch. 9 para. 5(3)**; S.I. 1997/618, **art. 2(1)** (with transitional savings in art. 2, Sch. para. 2)

F92 S. 94(12) substituted (1.4.1997) by 1996 c. 52, s. 106, **Sch. 9 para. 5(4)**; S.I. 1997/618, **art. 2(1)** (with transitional savings in art. 2, Sch. para. 2)

Modifications etc. (not altering text)

C2 S. 94(6)-(8) amended (1.4.1997) by 1996 c. 52, **s. 118(5)**; S.I. 1997/618, **art. 2(1)** (with transitional savings in art. 2, Sch. para. 3)

Marginal Citations

M65 1961 c. 55.

M66 1863 c. 49.

95 Saving for National Trust.

Chapters I and II shall not prejudice the operation of section 21 of the M67National Trust Act 1907, and accordingly there shall be no right under Chapter I or II to acquire any interest in or new lease of any 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

M67 1907 c. cxxxvi.

96 Property within cathedral precinct.

There shall be no right under Chapter I or II to acquire any interest in or lease of any property which for the purposes of the Care of Cathedrals Measure 1990 is within the precinct of a cathedral church.

97 Registration of notices, applications and orders under Chapters I and II.

(1) No lease shall be registrable under the M68Land Charges Act 1972 or be taken to be an estate contract within the meaning of that Act by reason of any rights or obligations of the tenant or landlord which may arise under Chapter I or II, and any right of a tenant arising from a notice given under section 13 or 42 shall not be an overriding interest within the meaning of the M69Land Registration Act 1925; but a notice given under section 13 or 42 shall be registrable under the Land Charges Act 1972, or may be the subject of a notice or caution under the Land Registration Act 1925, as if it were an estate contract.

(2) TheLand Charges Act 1972 and theLand Registration Act 1925—

(a) shall apply in relation to an order made under section 26(1) or 50(1) as they apply in relation to an order affecting land which is made by the court for the purpose of enforcing a judgment or recognisance; and

(b) shall apply in relation to an application for such an order as they apply in relation to other pending land actions.

(3) The persons applying for such an order in respect of any premises shall be treated for the purposes of section 57 of the Land Registration Act 1925 (inhibitions) as persons interested in relation to any registered land containing the whole or part of those premises.

Marginal Citations

M68 1972 c. 61.

M69 1925 c. 21.

98 Power to prescribe procedure under Chapters I and II.

(1) Where a claim to exercise the right to collective enfranchisement under Chapter I is made by the giving of a notice under section 13, or a claim to exercise the right to acquire a new lease under Chapter II is made by the giving of a notice under section 42, then except as otherwise provided by Chapter I or (as the case may be) Chapter II—

(a) the procedure for giving effect to the notice, and

(b) 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 Secretary of State and, subject to or in the absence of provision made by any such regulations, 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.

(2) Regulations under this section may, in particular, make provision—

(a) for a person to be discharged from performing any obligations arising out of a notice under section 13 or 42 by reason of the default or delay of some other person;

(b) for the payment of a deposit—

(i) by a nominee purchaser (within the meaning of Chapter I) on exchange of contracts, or

(ii) by a tenant who has given a notice under section 42; and

(c) with respect to the following matters, namely—

(i) the person with whom any such deposit is to be lodged and the capacity in which any such person is to hold it, and

(ii) the circumstances in which the whole or part of any such deposit is to be returned or forfeited.

99 Notices.

(1) Any notice required or authorised to be given under this Part—

(a) shall be in writing; and

(b) may be sent by post.

(2) Where in accordance with Chapter I or II an address in England and Wales is specified as an address at which notices may be given to any person or persons under that Chapter—

(a) any notice required or authorised to be given to that person or those persons under that Chapter may (without prejudice to the operation of subsection (3)) be given to him or them at the address so specified; but

(b) if a new address in England and Wales is so specified in substitution for that address by the giving of a notice to that effect, any notice so required or authorised to be given may be given to him or them at that new address instead.

(3) Where a tenant is required or authorised to give any notice under Chapter I or II to a person who—

(a) is the tenant's immediate landlord, and

(b) is such a landlord in respect of premises to which Part VI of the [M70]Landlord and Tenant Act 1987 (information to be furnished to tenants) applies,

the tenant may, unless he has been subsequently notified by the landlord of a different address in England and Wales for the purposes of this section, give the notice to the landlord—

(i) at the address last furnished to the tenant as the landlord's address for service in accordance with section 48 of that Act (notification of address for service of notices on landlord); or

(ii) if no such address has been furnished, at the address last furnished to the tenant as the landlord's address in accordance with section 47 of that Act (landlord's name and address to be contained in demands for rent).

(4) Subsections (2) and (3) apply to notices in proceedings under Chapter I or II as they apply to notices required or authorised to be given under that Chapter.

(5) Any notice which is given under Chapter I or II by any tenants or tenant must—

(a) if it is a notice given under section 13 or 42, be signed by each of the tenants, or (as the case may be) by the tenant, by whom it is given; and

(b) in any other case, be signed by or on behalf of each of the tenants, or (as the case may be) by or on behalf of the tenant, by whom it is given.

(6) The Secretary of State may by regulations prescribe—

(a) the form of any notice required or authorised to be given under this Part; and

(b) the particulars which any such notice must contain (whether in addition to, or in substitution for, any particulars required by virtue of any provision of this Part).

Commencement Information

I9 S. 99 wholly in force; s. 99 not in force at Royal Assent see s. 188(2); s. 99 in force for certain purposes at 2.9.1993 by S.I. 1993/2134, **art. 3**; s. 99 in force at 1.11.1993 in so far as it was not in force, by S.I. 1993/2134, **art. 5(a)**

Marginal Citations

M70 1987 c. 31.

100 Orders and regulations.

(1) Any power of the Secretary of State to make orders or regulations under this Part—

(a) may be so exercised as to make different provision for different cases or descriptions of cases, including different provision for different areas; and

(b) includes power to make such procedural, incidental, supplementary and transitional provision as may appear to the Secretary of State necessary or expedient.

(2) Any power of the Secretary of State to make orders or regulations under this Part shall be exercisable by statutory instrument which (except in the case of regulations making only such provision as is mentioned in section 99(6)) shall be subject to annulment in pursuance of a resolution of either House of Parliament.

101 General interpretation of Part I.

(1) In this Part—

"business lease" means a tenancy to which Part II of the [M71]Landlord and Tenant Act 1954 applies;

"common parts", in relation to any building or part of a building, includes the structure and exterior of that building or part and any common facilities within it;

"the court" (unless the context otherwise requires) means, by virtue of section 90(1), a county court;

"disposal" means a disposal whether by the creation or the transfer of an interest, and includes the surrender of a lease and the grant of an option or right of pre-emption, and "acquisition" shall be construed accordingly (as shall expressions related to either of these expressions);

"dwelling" means any building or part of a building occupied or intended to be occupied as a separate dwelling;

"flat" means a separate set of premises (whether or not on the same floor)—

(a) which forms part of a building, and

(b) which is constructed or adapted for use for the purposes of a dwelling, and

(c) either the whole or a material part of which lies above or below some other part of the building;

"interest" includes estate;

"lease" and "tenancy", and related expressions, shall be construed in accordance with subsection (2);

"rent assessment committee" means a rent assessment committee constituted under Schedule 10 to the [M72]Rent Act 1977;

"the term date", in relation to a lease granted for a term of years certain, means (subject to subsection (6)) the date of expiry of that term, and, in relation to a tenancy to which any of the provisions of section 102 applies, shall be construed in accordance with those provisions.

(2) In this Part "lease" and "tenancy" have the same meaning, and both expressions include (where the context so permits)—

(a) a sub-lease or sub-tenancy, and

(b) an agreement for a lease or tenancy (or for a sub-lease or sub-tenancy),

but do not include a tenancy at will or at sufferance; and the expressions "landlord" and "tenant", and references to letting, to the grant of a lease or to covenants or the terms of a lease, shall be construed accordingly.

(3) In this Part any reference (however expressed) to the lease held by a qualifying tenant of a flat is a reference to a lease held by him under which the demised premises consist of or include the flat (whether with or without one or more other flats).

(4) Where two or more persons jointly constitute either the landlord or the tenant or qualifying tenant in relation to a lease of a flat, any reference in this Part to the landlord or to the tenant or qualifying tenant is (unless the context otherwise requires) a reference to both or all of the persons who jointly constitute the landlord or the tenant or qualifying tenant, as the case may require.

(5) Any reference in this Part to the date of the commencement of a lease is a reference to the date of the commencement of the term of the lease.

(6) In the case of a lease which derives (in accordance with section 7(6)) from more than one separate leases, references in this Part to the date of the commencement of the lease or to the term date shall, if the terms of the separate leases commenced at different dates or those leases have different term dates, have effect as references to the date of the commencement, or (as the case may be) to the term date, of the lease comprising the flat in question (or the earliest date of commencement or earliest term date of the leases comprising it).

(7) For the purposes of this Part property is let with other property if the properties are let either under the same lease or under leases which, in accordance with section 7(6), are treated as a single lease.

(8) For the purposes of this Part any lease which is reversionary on another lease shall be treated as if it were a concurrent lease intermediate between that other lease and any interest superior to that other lease.

(9) For the purposes of this Part an order of a court or a decision of a leasehold valuation tribunal is to be treated as becoming final—

(a) if not appealed against, on the expiry 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—

(i) by the determination of it and the expiry of the time for bringing a further appeal (if any), or

(ii) by its being abandoned or otherwise ceasing to have effect.

Marginal Citations

M71 1954 c. 56.

M72 1977 c. 42.

102 Term date and other matters relating to periodical tenancies.

(1) Where either of the following provisions (which relate to continuation tenancies) applies to a tenancy, namely—

(a) section 19(2) of the [M73]Landlord and Tenant Act 1954 ("the 1954 Act"), or

(b) paragraph 16(2) of Schedule 10 to the [M74]Local Government and Housing Act 1989 ("the 1989 Act"),

the tenancy shall be treated for the relevant purposes of this Part as granted to expire—

(i) on the date which is the term date for the purposes of the 1954 Act (namely, the first date after the commencement of the 1954 Act on which, apart from the 1954 Act, the tenancy could have been brought to an end by a notice to quit given by the landlord under the tenancy), or

(ii) on the date which is the term date for the purposes of Schedule 10 to the 1989 Act (namely, the first date after the commencement of Schedule 10 to the 1989 Act on which, apart from that Schedule, the tenancy could have been brought to an end by such a notice to quit),

as the case may be.

(2) Subject to subsection (1), where under section 7(3) a tenancy created or arising as a tenancy from year to year or other periodical tenancy is to be treated as a long lease, then for the relevant purposes of this Part, the term date of that tenancy shall be taken to be the date (if any) on which the tenancy is to terminate by virtue of a notice to quit given by the landlord under the tenancy before the relevant date for those purposes, or else the earliest date on which it could as at that date (in accordance with its terms and apart from any enactment) be brought to an end by such a notice to quit.

(3) Subject to subsection (1), in the case of a tenancy granted to continue as a periodical tenancy after the expiry of a term of years certain, or to continue as a periodical tenancy if not terminated at the expiry of such a term, any question whether the tenancy is at any time to be treated for the relevant purposes of this Part as a long lease, 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 that term of years certain) at which the tenancy could (in accordance with its terms and apart from any enactment) be brought to an end by a notice to quit given by the landlord under the tenancy; and

(b) the other granted to commence at the expiry of the first (and not being one to which subsection (1) applies).

(4) In this section "the relevant purposes of this Part" means the purposes of Chapter I or, to the extent that section 7 has effect for the purposes of Chapter II in accordance with section 39(3), the purposes of that Chapter.

Marginal Citations

M73 1954 c. 56.

M74 1989 c. 42.

103 Application of Part I to Isles of Scilly.

This Part applies to the Isles of Scilly subject to such exceptions, adaptations and modifications as the Secretary of State may by order direct.

PART II

PUBLIC SECTOR HOUSING

CHAPTER I

ENGLAND AND WALES

Right to buy

104 Landlord's notice of purchase price and other matters.

For subsection (5) of section 125 (landlord's notice of purchase price and other matters) of the [M75]Housing Act 1985 (in this Chapter referred to as "the 1985 Act") there shall be substituted the following subsection—

"(5) The notice shall also inform the tenant of—

(a) the effect of sections 125D and 125E(1) and (4) (tenant's notice of intention, landlord's notice in default and effect of failure to comply),

(b) his right under section 128 to have the value of the dwelling-house at the relevant time determined or re-determined by the district valuer,

(c) the effect of section 136(2) (change of tenant after service of notice under section 125),

(d) the effect of sections 140 and 141(1), (2) and (4) (landlord's notices to complete and effect of failure to comply),

(e) the effect of the provisions of this Part relating to the right to acquire on rent to mortgage terms, and

(f) the relevant amount and multipliers for the time being declared by the Secretary of State for the purposes of section 143B."

Commencement Information

I10 S. 104 wholly in force at 11.10.1993 (subject to the transitional provisions and savings in Sch. 1 to S.I. 1993/2134) see **s. 188(2)** and S.I. 1993/2134, **art. 4(b)**

Marginal Citations

M75 1985 c. 68.

105 Tenant's notice of intention etc.

(1) After section 125C of the 1985 Act there shall be inserted the following sections—

"**125D Tenant's notice of intention.**

(1) Where a notice under section 125 has been served on a secure tenant, he shall within the period specified in subsection (2) either—

(a) serve a written notice on the landlord stating either that he intends to pursue his claim to exercise the right to buy or that he withdraws that claim, or

(b) serve a notice under section 144 claiming to exercise the right to acquire on rent to mortgage terms.

(2) The period for serving a notice under subsection (1) is the period of twelve weeks beginning with whichever of the following is the later—

(a) the service of the notice under section 125, and

(b) where the tenant exercises his right to have the value of the dwelling-house determined or re-determined by the district valuer, the service of the notice under section 128(5) stating the effect of the determination or re-determination.

125E Landlord's notice in default.

(1) The landlord may, at any time after the end of the period specified in section 125D(2) or, as the case may require, section 136(2), serve on the tenant a written notice—

(a) requiring him, if he has failed to serve the notice required by section 125D(1), to serve that notice within 28 days, and

(b) informing him of the effect of this subsection and subsection (4).

(2) At any time before the end of the period mentioned in subsection (1)(a) (or that period as previously extended) the landlord may by written notice served on the tenant extend it (or further extend it).

(3) If at any time before the end of that period (or that period as extended under subsection (2)) the circumstances are such that it would not be reasonable to expect the tenant to comply with a notice under this section, that period (or that period as so extended) shall by virtue of this subsection be extended (or further extended) until 28 days after the time when those circumstances no longer obtain.

(4) If the tenant does not comply with a notice under this section, the notice claiming to exercise the right to buy shall be deemed to be withdrawn at the end of that period (or, as the case may require, that period as extended under subsection (2) or (3)).”

(2) For subsections (2) to (5) of section 136 of the 1985 Act (change of tenant after notice claiming to exercise the right to buy) there shall be substituted the following subsection—

“(2) If a notice under section 125 (landlord's notice of purchase price and other matters) has been served on the former tenant, then, whether or not the former tenant has served a notice under subsection (1) of section 125D (tenant's notice of intention), the new tenant shall serve a notice under that subsection within the period of twelve weeks beginning with whichever of the following is the later—

(a) his becoming the secure tenant, and

(b) where the right to have the value of the dwelling-house determined or re-determined by the district valuer is or has been exercised by him or the former tenant, the service of the notice under section 128(5) stating the effect of the determination or re-determination.”

Commencement Information

I11 S. 105 wholly in force at 11.10.1993 (subject to the transitional provisions and savings in Sch. 1 to S.I. 1993/2134) see **s. 188(2)** and S.I. 1993/2134, **art. 4(b)**

106 Exceptions to the right to buy.

(1) In paragraph 10(1) (groups of dwelling-houses for persons of pensionable age) of Schedule 5 to the 1985 Act (exceptions to the right to buy)—

(a) for the words "persons of pensionable age", in the first place where they occur, there shall be substituted the words " elderly persons "; and

(b) for those words, in the second place where they occur, there shall be substituted the words " persons aged 60 or more ".

(2) For paragraph 11 (individual dwelling-houses for persons of pensionable age) of that Schedule there shall be substituted the following paragraph—

"11 (1) The right to buy does not arise if the dwelling-house—

(a) is particularly suitable, having regard to its location, size, design, heating system and other features, for occupation by elderly persons, and

(b) was let to the tenant or a predecessor in title of his for occupation by a person who was aged 60 or more (whether the tenant or predecessor or another person).

(2) In determining whether a dwelling is particularly suitable, no regard shall be had to the presence of any feature provided by the tenant or a predecessor in title of his.

(3) Notwithstanding anything in section 181 (jurisdiction of county court), any question arising under this paragraph shall be determined as follows.

(4) If an application for the purpose is made by the tenant to the Secretary of State before the end of the period of 56 days beginning with the service of the landlord's notice under section 124, the question shall be determined by the Secretary of State.

(5) If no such application is so made, the question shall be deemed to have been determined in favour of the landlord.

(6) This paragraph does not apply unless the dwelling-house concerned was first let before 1st January 1990."

(3) Subsections (1) and (2) do not apply in any case where the tenant's notice claiming to exercise the right to buy was served before the day on which this section comes into force.

(4) For the purposes of subsection (3), no account shall be taken of any steps taken under section 177 of the 1985 Act (amendment or withdrawal and re-service of notice to correct mistakes).

Commencement Information

I12 S. 106 wholly in force at 11.10.1993 (subject to the transitional provisions and savings in Sch. 1 to S.I. 1993/2134) see **s. 188(2)** and S.I. 1993/2134, **art. 4(b)**

Abolition of certain ancillary rights

107 Abolition of right to a mortgage, right to defer completion and right to be granted a shared ownership lease.

The following rights ancillary to the right to buy are hereby abolished, namely—

(a) the right to a mortgage conferred by sections 132 to 135 of the 1985 Act;

(b) the right to defer completion conferred by section 142 of that Act; and

(c) the right to be granted a shared ownership lease conferred by sections 143 to 151 of that Act.

Commencement Information

I13 S. 107 wholly in force at 11.10.1993 (subject to the transitional provisions and savings in Sch. 1 to S.I. 1993/2134) see **s. 188(2)** and S.I. 1993/2134, **art. 4(b)**

Right to acquire on rent to mortgage terms

108 Right to acquire on rent to mortgage terms.

For section 143 of the 1985 Act there shall be substituted the following sections—

" Right to acquire on rent to mortgage terms

143 Right to acquire on rent to mortgage terms.

(1) Subject to subsection (2) and sections 143A and 143B, where—

(a) a secure tenant has claimed to exercise the right to buy, and

(b) his right to buy has been established and his notice claiming to exercise it remains in force,

he also has the right to acquire on rent to mortgage terms in accordance with the following provisions of this Part.

(2) The right to acquire on rent to mortgage terms cannot be exercised if the exercise of the right to buy is precluded by section 121 (circumstances in which right to buy cannot be exercised).

(3) Where the right to buy belongs to two or more persons jointly, the right to acquire on rent to mortgage terms also belongs to them jointly.

143A Right excluded by entitlement to housing benefit.

(1) The right to acquire on rent to mortgage terms cannot be exercised if—

(a) it has been determined that the tenant is or was entitled to housing benefit in respect of any part of the relevant period, or

(b) a claim for housing benefit in respect of any part of that period has been made (or is treated as having been made) by or on behalf of the tenant and has not been determined or withdrawn.

(2) In this section "the relevant period" means the period—

(a) beginning twelve months before the day on which the tenant claims to exercise the right to acquire on rent to mortgage terms, and

(b) ending with the day on which the conveyance or grant is executed in pursuance of that right.

143B Right excluded if minimum initial payment exceeds maximum initial payment.

(1) The right to acquire on rent to mortgage terms cannot be exercised if the minimum initial payment in respect of the dwelling-house exceeds the maximum initial payment in respect of it.

(2) The maximum initial payment in respect of a dwelling-house is 80 per cent. of the price which would be payable if the tenant were exercising the right to buy.

(3) Where, in the case of a dwelling-house which is a house, the weekly rent at the relevant time did not exceed the relevant amount, the minimum initial payment shall be determined by the formula—

$$P = R \text{ x } M$$

where—

P = the minimum initial payment;

R = the amount of the weekly rent at the relevant time;

M = the multiplier which at that time was for the time being declared by the Secretary of State for the purposes of this subsection.

(4) Where, in the case of a dwelling-house which is a house, the weekly rent at the relevant time exceeded the relevant amount, the minimum initial payment shall be determined by the formula—

$$P = Q + (E \text{ x } M)$$

where—

P = the minimum initial payment;

Q = the qualifying maximum for the year of assessment which included the relevant time;

E = the amount by which the weekly rent at that time exceeded the relevant amount;

M = the multiplier which at that time was for the time being declared by the Secretary of State for the purposes of this subsection.

(5) The minimum initial payment in respect of a dwelling-house which is a flat is 80 per cent. of the amount which would be the minimum initial payment in respect of the dwelling-house if it were a house.

(6) The relevant amount and multipliers for the time being declared for the purposes of this section shall be such that, in the case of a dwelling-house which is a house, they will produce a minimum initial payment equal to the capital sum which, in the opinion of the Secretary of State, could be raised on a 25 year repayment mortgage in the case of which the net amount of the monthly mortgage payments was equal to the rent at the relevant time calculated on a monthly basis.

(7) For the purposes of subsection (6) the Secretary of State shall assume—

(a) that the interest rate applicable throughout the 25 year term were the standard national rate for the time being declared by the Secretary of State under paragraph 2 of Schedule 16 (local authority mortgage interest rates); and

(b) that the monthly mortgage payments represented payments of capital and interest only.

(8) In this section—

"net amount", in relation to monthly mortgage payments, means the amount of such payments after deduction of tax under section 369 of the [M76]Income and Corporation Taxes Act 1988 (mortgage interest payable under deduction of tax);

"qualifying maximum" means the qualifying maximum defined in section 367(5) of that Act (limit on relief for interest on certain loans);

"relevant amount" means the amount which at the relevant time was for the time being declared by the Secretary of State for the purposes of this section;

"relevant time" means the time of the service of the landlord's notice under section 146 (landlord's notice admitting or denying right);

"rent" means rent payable under the secure tenancy, but excluding any element which is expressed to be payable for services, repairs, maintenance or insurance or the landlord's costs of management."

Commencement Information

I14 S. 108 wholly in force; s. 108 not in force at Royal Assent see s. 188(2); s. 108 in force for certain purposes at 2.9.1993 by S.I. 1993/2134, **art. 3**; s. 108 in force at 11.10.1993 in so far as it was not in force, (subject to the transitional provisions and savings in Sch. 1 to S.I. 1993/2134) by S.I. 1993/2134, **art. 4(b)**

Marginal Citations

M76 1988 c. 1.

109 Tenant's notice claiming right.

For sections 144 and 145 of the 1985 Act there shall be substituted the following section—

"**144 Tenant's notice claiming right.**

(1) A secure tenant claims to exercise the right to acquire on rent to mortgage terms by written notice to that effect served on the landlord.

(2) The notice may be withdrawn at any time by notice in writing served on the landlord.

(3) On the service of a notice under this section, any notice served by the landlord under section 140 or 141 (landlord's notices to complete purchase in pursuance of right to buy) shall be deemed to have been withdrawn; and no such notice may be served by the landlord whilst a notice under this section remains in force.

(4) Where a notice under this section is withdrawn, the tenant may complete the transaction in accordance with the provisions of this Part relating to the right to buy."

Commencement Information

I15 S. 109 wholly in force at 11.10.1993 (subject to the transitional provisions and savings in Sch. 1 to S.I. 1993/2134) see **s. 188(2)** and S.I. 1993/2134, **art. 4(b)**

110 Landlord's notice admitting or denying right.

For section 146 of the 1985 Act there shall be substituted the following section—

"**146 Landlord's notice admitting or denying right.**

(1) Where a notice under section 144 (notice claiming to exercise the right to acquire on rent to mortgage terms) has been served by the tenant, the landlord shall, unless the notice is withdrawn, serve on the tenant as soon as practicable a written notice either—

(a) admitting the tenant's right and informing him of the matters mentioned in subsection (2), or

(b) denying it and stating the reasons why, in the opinion of the landlord, the tenant does not have the right to acquire on rent to mortgage terms.

(2) The matters are—

(a) the relevant amount and multipliers for the time being declared by the Secretary of State for the purposes of section 143B;

(b) the amount of the minimum initial payment;

(c) the proportion which that amount bears to the price which would be payable if the tenant exercised the right to buy;

(d) the landlord's share on the assumption that the tenant makes the minimum initial payment;

(e) the amount of the initial discount on that assumption; and

(f) the provisions which, in the landlord's opinion, should be contained in the conveyance or grant and the mortgage required by section 151B (mortgage for securing redemption of landlord's share)."

Commencement Information

I16 S. 110 wholly in force at 11.10.1993 (subject to the transitional provisions and savings in Sch. 1 to S.I. 1993/2134) see **s. 188(2)** and S.I. 1993/2134, **art. 4(b)**

111 Tenant's notice of intention etc.

After section 146 of the 1985 Act there shall be inserted the following sections—

"**146A Tenant's notice of intention.**

(1) Where a notice under section 146 has been served on a secure tenant, he shall within the period specified in subsection (2) serve a written notice on the landlord stating either—

(a) that he intends to pursue his claim to exercise the right to acquire on rent to mortgage terms and the amount of the initial payment which he proposes to make, or

(b) that he withdraws that claim and intends to pursue his claim to exercise the right to buy, or

(c) that he withdraws both of those claims.

(2) The period for serving a notice under subsection (1) is the period of twelve weeks beginning with the service of the notice under section 146.

(3) The amount stated in a notice under subsection (1)(a)—

(a) shall not be less than the minimum initial payment and not more than the maximum initial payment, and

(b) may be varied at any time by notice in writing served on the landlord.

146B Landlord's notice in default.

(1) The landlord may, at any time after the end of the period specified in section 146A(2), serve on the tenant a written notice—

(a) requiring him, if he has failed to serve the notice required by section 146A(1), to serve that notice within 28 days, and

(b) informing him of the effect of this subsection and subsection (4).

(2) At any time before the end of the period mentioned in subsection (1)(a) (or that period as previously extended) the landlord may by written notice served on the tenant extend it (or further extend it).

(3) If at any time before the end of that period (or that period as extended under subsection (2)) the circumstances are such that it would not be reasonable to expect the tenant to comply with a notice under this section, that period (or that period as so extended) shall by virtue of this subsection be extended (or further extended) until 28 days after the time when those circumstances no longer obtain.

(4) If the tenant does not comply with a notice under this section the notice claiming to exercise the right to acquire on rent to mortgage terms shall be deemed to be withdrawn at the end of that period (or, as the case may require, that period as extended under subsection (2) or (3)).”

Commencement Information

I17 S. 111 wholly in force at 11.10.1993 (subject to the transitional provisions and savings in Sch. 1 to S.I. 1993/2134) see **s. 188(2)** and S.I. 1993/2134, **art. 4(b)**

112 Notice of landlord’s share and initial discount.

For section 147 of the 1985 Act there shall be substituted the following section—

“**147 Notice of landlord’s share and initial discount.**

(1) Where a secure tenant has served—

(a) a notice under section 146A(1)(a) stating that he intends to pursue his claim to exercise the right to acquire on rent to mortgage terms, and the amount of the initial payment which he proposes to make, or

(b) a notice under section 146A(3)(b) varying the amount stated in a notice under section 146A(1)(a),

the landlord shall, as soon as practicable, serve on the tenant a written notice complying with this section.

(2) The notice shall state—

(a) the landlord’s share on the assumption that the amount of the tenant’s initial payment is that stated in the notice under section 146A(1)(a) or, as the case may be, section 146A(3)(b), and

(b) the amount of the initial discount on that assumption,

determined in each case in accordance with section 148.”

Commencement Information

I18 S. 112 wholly in force at 11.10.1993 (subject to the transitional provisions and savings in Sch. 1 to S.I. 1993/2134) see **s. 188(2)** and S.I. 1993/2134, **art. 4(b)**

113 Determination of landlord’s share, initial discount etc.

For section 148 of the 1985 Act there shall be substituted the following section—

“**148 Determination of landlord’s share, initial discount etc.**

The landlord’s share shall be determined by the formula—

the amount of the initial discount shall be determined by the formula—

and the amount of any previous discount which will be recovered by virtue of the transaction shall be determined by the formula—

S = the landlord's share expressed as a percentage;

P = the price which would be payable if the tenant were exercising the right to buy;

IP = the amount of the tenant's initial payment (but disregarding any reduction in pursuance of section 153B(3));

ID = the amount of the initial discount;

D = the amount of the discount which would be applicable if the tenant were exercising the right to buy;

RD = the amount of any previous discount which will be recovered by virtue of the transaction;

PD = the amount of any previous discount which would be recovered if the tenant were exercising the right to buy."

Commencement Information

I19 S. 113 wholly in force at 11.10.1993 (subject to the transitional provisions and savings in Sch. 1 to S.I. 1993/2134) see **s. 188(2)** and S.I. 1993/2134, **art. 4(b)**

114 Change of landlord after notice claiming right.

For section 149 of the 1985 Act there shall be substituted the following section—

"**149 Change of landlord after notice claiming right.**

(1) Where the interest of the landlord in the dwelling-house passes from the landlord to another body after a secure tenant has given a notice claiming to exercise the right to acquire on rent to mortgage terms, all parties shall subject to subsection (2) be in the same position as if the other body—

(a) had become the landlord before the notice was given, and

(b) had been given that notice and any further notice given by the tenant to the landlord, and

(c) had taken all steps which the landlord had taken.

(2) If the circumstances after the disposal differ in any material respect, as for example where—

(a) the interest of the disponee in the dwelling-house after the disposal differs from that of the disponor before the disposal, or

(b) any of the provisions of Schedule 5 (exceptions to the right to buy) becomes or ceases to be applicable,

all those concerned shall, as soon as practicable after the disposal, take all such steps (whether by way of amending or withdrawing and re-serving any notice or extending any period or otherwise) as may be requisite for the purpose of securing that all parties are, as nearly as may be, in the same position as they would have been if those circumstances had obtained before the disposal."

Commencement Information

I20 S. 114 wholly in force at 11.10.1993 (subject to the transitional provisions and savings in Sch. 1 to S.I. 1993/2134) see **s. 188(2)** and S.I. 1993/2134, **art. 4(b)**

115 Duty of landlord to convey freehold or grant lease.

For section 150 of the 1985 Act there shall be substituted the following section—

"**150 Duty of landlord to convey freehold or grant lease.**

(1) Where a secure tenant has claimed to exercise the right to acquire on rent to mortgage terms and that right has been established, then, as soon as all matters relating to the grant and to securing the redemption of the landlord's share have been agreed or determined, the landlord shall make to the tenant—

(a) if the dwelling-house is a house and the landlord owns the freehold, a grant of the dwelling-house for an estate in fee simple absolute, or

(b) if the landlord does not own the freehold or if the dwelling-house is a flat (whether or not the landlord owns the freehold), a grant of a lease of the dwelling-house,

in accordance with the following provisions of this Part.

(2) If the tenant has failed to pay the rent or any other payment due from him as a tenant for a period of four weeks after it has been lawfully demanded from him, the landlord is not bound to comply with subsection (1) while the whole or part of that payment remains outstanding.

(3) The duty imposed on the landlord by subsection (1) is enforceable by injunction."

Commencement Information

I21 S. 115 wholly in force at 11.10.1993 (subject to the transitional provisions and savings in Sch. 1 to S.I. 1993/2134) see **s. 188(2)** and S.I. 1993/2134, **art. 4(b)**

116 Terms and effect of conveyance or grant: general.

(1) For section 151 of the 1985 Act there shall be substituted the following section—

"**151 Terms and effect of conveyance or grant: general.**

(1) A conveyance of the freehold executed in pursuance of the right to acquire on rent to mortgage terms shall conform with Parts I and II of Schedule 6; a grant of a lease so executed shall conform with Parts I and III of that Schedule; and Part IV of that Schedule applies to such a conveyance or lease as it applies to a conveyance or lease executed in pursuance of the right to buy.

(2) The secure tenancy comes to an end on the grant to the tenant of an estate in fee simple, or of a lease, in pursuance of the right to acquire on rent to mortgage terms; and if there is then a sub-tenancy section 139 of the [M77]Law

of Property Act 1925 (effect of extinguishment of reversion) applies as on a merger or surrender."

(2) In Part III of Schedule 6 to the 1985 Act (terms of lease granted in pursuance of right to buy or right to acquire on rent to mortgage terms), after paragraph 16D there shall be inserted the following paragraph—

"16E (1) Where a lease of a flat granted in pursuance of the right to acquire on rent to mortgage terms requires the tenant to pay—

(a) service charges in respect of repairs (including works for the making good of structural defects), or

(b) improvement contributions,

his liability in respect of costs incurred at any time before the final payment is made is restricted as follows.

(2) He is not required to pay any more than the amount determined by the formula—

$$M = P \text{ x } \frac{100 - S}{100}$$

where—

M = the maximum amount which he is required to pay;

P = the amount which, but for this paragraph, he would be required to pay;

S = the landlord's share at the time expressed as a percentage."

Commencement Information

I22 S. 116 wholly in force at 11.10.1993 (subject to the transitional provisions and savings in Sch. 1 to 1993/2134) see s. 188(2) and S.I. 1993/2134, **art. 4(b)**

Marginal Citations

M77 1925 c. 20.

117 Redemption of landlord's share.

(1) After section 151 of the 1985 Act there shall be inserted the following section—

"**151A Redemption of landlord's share.**

Schedule 6A (which makes provision for the redemption of the landlord's share) shall have effect; and a conveyance of the freehold or a grant of a lease executed in pursuance of the right to acquire on rent to mortgage terms shall conform with that Schedule."

(2) After Schedule 6 to the 1985 Act there shall be inserted as Schedule 6A the Schedule set out in Schedule 16 to this Act.

Commencement Information

I23 S. 117 wholly in force at 11.10.1993 (subject to the transitional provisions and savings in Sch. 1 to 1993/2134) see s. 188(2) and S.I. 1993/2134, **art. 4(b)**

118 Mortgage for securing redemption of landlord's share.

After section 151A of the 1985 Act there shall be inserted the following section—

"151B Mortgage for securing redemption of landlord's share.

(1) The liability that may arise under the covenant required by paragraph 1 of Schedule 6A (covenant for the redemption of the landlord's share in the circumstances there mentioned) shall be secured by a mortgage.

(2) Subject to subsections (3) and (4), the mortgage shall have priority immediately after any legal charge securing an amount advanced to the secure tenant by an approved lending institution for the purpose of enabling him to exercise the right to acquire on rent to mortgage terms.

(3) The following, namely—

(a) any advance which is made otherwise than for the purpose mentioned in subsection (2) and is secured by a legal charge having priority to the mortgage, and

(b) any further advance which is so secured,

shall rank in priority to the mortgage if, and only if, the landlord by written notice served on the institution concerned gives its consent; and the landlord shall so give its consent if the purpose of the advance or further advance is an approved purpose.

(4) The landlord may at any time by written notice served on an approved lending institution postpone the mortgage to any advance or further advance which—

(a) is made to the tenant by that institution, and

(b) is secured by a legal charge not having priority to the mortgage;

and the landlord shall serve such a notice if the purpose of the advance or further advance is an approved purpose.

(5) The approved lending institutions for the purposes of this section are—

the Corporation,
a building society,
a bank,
a trustee savings bank,
an insurance company,
a friendly society,

and any body specified, or of a class or description specified, in an order made under section 156.

(6) The approved purposes for the purposes of this section are—

(a) to enable the tenant to make an interim or final payment,

(b) to enable the tenant to defray, or to defray on his behalf, any of the following—

(i) the cost of any works to the dwelling-house,

(ii) any service charge payable in respect of the dwelling-house for works, whether or not to the dwelling-house, and

(iii) any service charge or other amount payable in respect of the dwelling-house for insurance, whether or not of the dwelling-house, and

(c) to enable the tenant to discharge, or to discharge on his behalf, any of the following—

(i) so much as is still outstanding of any advance or further advance which ranks in priority to the mortgage,

(ii) any arrears of interest on such an advance or further advance, and

(iii) any costs and expenses incurred in enforcing payment of any such interest, or repayment (in whole or in part) of any such advance or further advance.

(7) Where different parts of an advance or further advance are made for different purposes, each of those parts shall be regarded as a separate advance or further advance for the purposes of this section.

(8) The Secretary of State may by order prescribe—

(a) matters for which the deed by which the mortgage is effected must make provision, and

(b) terms which must, or must not, be contained in that deed,

but only in relation to deeds executed after the order comes into force.

(9) The deed by which the mortgage is effected may contain such other provisions as may be—

(a) agreed between the mortgagor and the mortgagee, or

(b) determined by the county court to be reasonably required by the mortgagor or the mortgagee.

(10) An order under this section—

(a) may make different provision with respect to different cases or descriptions of case, including different provision for different areas, and

(b) shall be made by statutory instrument which shall be subject to annulment in pursuance of a resolution of either House of Parliament.”

Commencement Information

I24 S. 118 wholly in force at 11.10.1993 (subject to the transitional provisions and savings in Sch. 1 to 1993/2134) see s. 188(2) and S.I. 1993/2134, **art. 4(b)**

119 Landlord’s notices to complete.

(1) For subsection (3) of section 152 of the 1985 Act (landlord’s first notice to complete) there shall be substituted the following section—

"(3) A notice under this section shall not be served earlier than twelve months after the service of the notice under section 146 (landlord's notice admitting or denying right)."

(2) In subsection (5) of that section, for the words "the amount to be left outstanding or advanced on the security of the dwelling-house" there shall be substituted the words " securing the redemption of the landlord's share ".

(3) In subsection (4) of section 153 of the 1985 Act (landlord's second notice to complete), for the words "the right to be granted a shared ownership lease" there shall be substituted the words " the right to acquire on rent to mortgage terms ".

Commencement Information

I25 S. 119 wholly in force at 11.10.1993 (subject to the transitional provisions and savings in Sch. 1 to 1993/2134) see s. 188(2) and S.I. 1993/2134, **art. 4(b)**

120 Repayment of discount on early disposal.

(1) For subsection (3) of section 155 of the 1985 Act (repayment of discount on early disposal) there shall be substituted the following subsection—

"(3) In the case of a conveyance or grant in pursuance of the right to acquire on rent to mortgage terms, the covenant shall be to pay to the landlord on demand, if within the period of three years commencing with the making of the initial payment there is a relevant disposal which is not an exempted disposal (but if there is more than one such disposal, then only on the first of them), the discount (if any) to which the tenant was entitled on the making of—

(a) the initial payment,

(b) any interim payment made before the disposal, or

(c) the final payment if so made,

reduced, in each case, by one-third for each complete year which has elapsed after the making of the initial payment and before the disposal."

(2) In subsection (3A) of that section, for paragraph (b) there shall be substituted the following paragraph—

"(b) any reference in subsection (3) (other than paragraph (a) thereof) to the making of the initial payment shall be construed as a reference to the date which precedes that payment by the period referred to in paragraph (a) of this subsection."

(3) For subsection (2) of section 156 of the 1985 Act (liability to repay discount is a charge on the premises) there shall be substituted the following subsections—

"(2) Subject to subsections (2A) and (2B), the charge has priority as follows—

(a) if it secures the liability that may arise under the covenant required by section 155(2), immediately after any legal charge securing an amount advanced to the secure tenant by an approved lending institution for the purpose of enabling him to exercise the right to buy;

(b) if it secures the liability that may arise under the covenant required by section 155(3), immediately after the mortgage—

(i) which is required by section 151B (mortgage for securing redemption of landlord's share), and

(ii) which, by virtue of subsection (2) of that section, has priority immediately after any legal charge securing an amount advanced to the secure tenant by an approved lending institution for the purpose of enabling him to exercise the right to acquire on rent to mortgage terms.

(2A) The following, namely—

(a) any advance which is made otherwise than for the purpose mentioned in paragraph (a) or (b) of subsection (2) and is secured by a legal charge having priority to the charge taking effect by virtue of this section, and

(b) any further advance which is so secured,

shall rank in priority to that charge if, and only if, the landlord by written notice served on the institution concerned gives its consent; and the landlord shall so give its consent if the purpose of the advance or further advance is an approved purpose.

(2B) The landlord may at any time by written notice served on an approved lending institution postpone the charge taking effect by virtue of this section to any advance or further advance which—

(a) is made to the tenant by that institution, and

(b) is secured by a legal charge not having priority to that charge;

and the landlord shall serve such a notice if the purpose of the advance or further advance is an approved purpose."

(4) After subsection (4) of that section there shall be inserted the following subsections—

"(4A) The approved purposes for the purposes of this section are—

(a) to enable the tenant to make an interim or final payment,

(b) to enable the tenant to defray, or to defray on his behalf, any of the following—

(i) the cost of any works to the dwelling-house,

(ii) any service charge payable in respect of the dwelling-house for works, whether or not to the dwelling-house, and

(iii) any service charge or other amount payable in respect of the dwelling-house for insurance, whether or not of the dwelling-house, and

(c) to enable the tenant to discharge, or to discharge on his behalf, any of the following—

(i) so much as is still outstanding of any advance or further advance which ranks in priority to the charge taking effect by virtue of this section,

(ii) any arrears of interest on such an advance or further advance, and

(iii) any costs and expenses incurred in enforcing payment of any such interest, or repayment (in whole or in part) of any such advance or further advance.

(4B) Where different parts of an advance or further advance are made for different purposes, each of those parts shall be regarded as a separate advance or further advance for the purposes of this section."

Commencement Information

I26 S. 120 wholly in force at 11.10.1993 (subject to the transitional provisions and savings in Sch. 1 to 1993/2134) see s. 188(2) and S.I. 1993/2134, **art. 4(b)**

Other rights of secure tenants

121 Right to have repairs carried out.

For section 96 of the 1985 Act there shall be substituted the following section—

"**96 Right to have repairs carried out.**

(1) The Secretary of State may make regulations for entitling secure tenants whose landlords are local housing authorities, subject to and in accordance with the regulations, to have qualifying repairs carried out, at their landlords' expense, to the dwelling-houses of which they are such tenants.

(2) The regulations may make all or any of the following provisions, namely—

(a) provision that, where a secure tenant makes an application to his landlord for a qualifying repair to be carried out, the landlord shall issue a repair notice—

(i) specifying the nature of the repair, the listed contractor by whom the repair is to be carried out and the last day of any prescribed period; and

(ii) containing such other particulars as may be prescribed;

(b) provision that, if the contractor specified in a repair notice fails to carry out the repair within a prescribed period, the landlord shall issue a further repair notice specifying such other listed contractor as the tenant may require; and

(c) provision that, if the contractor specified in a repair notice fails to carry out the repair within a prescribed period, the landlord shall pay to the tenant such sum by way of compensation as may be determined by or under the regulations.

(3) The regulations may also make such procedural, incidental, supplementary and transitional provisions as may appear to the Secretary of State necessary or expedient, and may in particular—

(a) require a landlord to take such steps as may be prescribed to make its secure tenants aware of the provisions of the regulations;

(b) require a landlord to maintain a list of contractors who are prepared to carry out repairs for which it is responsible under the regulations;

(c) provide that, where a landlord issues a repair notice, it shall give to the tenant a copy of the notice and the prescribed particulars of at least two other listed contractors who are competent to carry out the repair;

(d) provide for questions arising under the regulations to be determined by the county court; and

(e) enable the landlord to set off against any compensation payable under the regulations any sums owed to it by the tenant.

(4) Nothing in subsection (2) or (3) shall be taken as prejudicing the generality of subsection (1).

(5) Regulations under this section—

(a) may make different provision with respect to different cases or descriptions of case, including different provision for different areas, and

(b) shall be made by statutory instrument which shall be subject to annulment in pursuance of a resolution of either House of Parliament.

(6) In this section—

"listed contractor", in relation to a landlord, means any contractor (which may include the landlord) who is specified in the landlord's list of contractors;

"qualifying repair", in relation to a dwelling-house, means any repair of a prescribed description which the landlord is obliged by a repairing covenant to carry out;

"repairing covenant", in relation to a dwelling-house, means a covenant, whether express or implied, obliging the landlord to keep in repair the dwelling-house or any part of the dwelling-house;

and for the purposes of this subsection a prescribed description may be framed by reference to any circumstances whatever."

Commencement Information

I27 S. 121 wholly in force at 1.12.1993 (subject to art. 5 of S.I. 1993/2762) see **s. 188(2)** and S.I. 1993/2762, **art. 4(a)**

122 Right to compensation for improvements.

After section 99 of the 1985 Act there shall be inserted the following sections—

"**99A Right to compensation for improvements.**

(1) The powers conferred by this section shall be exercisable as respects cases where a secure tenant has made an improvement and—

(a) the work on the improvement was begun not earlier than the commencement of section 122 of the Leasehold Reform, Housing and Urban Development Act 1993,

(b) the landlord, or a predecessor in title of the landlord (being a local authority), has given its written consent to the improvement or is to be treated as having given its consent, and

(c) at the time when the tenancy comes to an end the landlord is a local authority and the tenancy is a secure tenancy.

(2) The Secretary of State may make regulations for entitling the qualifying person or persons (within the meaning given by section 99B)—

(a) at the time when the tenancy comes to an end, and

(b) subject to and in accordance with the regulations,

to be paid compensation by the landlord in respect of the improvement.

(3) The regulations may provide that compensation shall be not payable if—

(a) the improvement is not of a prescribed description,

(b) the tenancy comes to an end in prescribed circumstances,

(c) compensation has been paid under section 100 in respect of the improvement, or

(d) the amount of any compensation which would otherwise be payable is less than a prescribed amount;

and for the purposes of this subsection a prescribed description may be framed by reference to any circumstances whatever.

(4) The regulations may provide that the amount of any compensation payable shall not exceed a prescribed amount but, subject to that, shall be determined by the landlord, or calculated, in such manner, and taking into account such matters, as may be prescribed.

(5) The regulations may also make such procedural, incidental, supplementary and transitional provisions as may appear to the Secretary of State necessary or expedient, and may in particular—

(a) provide for the manner in which and the period within which claims for compensation under the regulations are to be made, and for the procedure to be followed in determining such claims,

(b) prescribe the form of any document required to be used for the purposes of or in connection with such claims,

(c) provide for questions arising under the regulations to be determined by the district valuer or the county court, and

(d) enable the landlord to set off against any compensation payable under the regulations any sums owed to it by the qualifying person or persons.

(6) Nothing in subsections (3) to (5) shall be taken as prejudicing the generality of subsection (2).

(7) Regulations under this section—

(a) may make different provision with respect to different cases or descriptions of case, including different provision for different areas, and

(b) shall be made by statutory instrument which (except in the case of regulations making only such provision as is mentioned in subsection (5)(b)) shall be subject to annulment in pursuance of a resolution of either House of Parliament.

(8) For the purposes of this section and section 99B, a tenancy shall be treated as coming to an end if—

(a) it ceases to be a secure tenancy by reason of the landlord condition no longer being satisfied, or

(b) it is assigned, with the consent of the landlord—

(i) to another secure tenant who satisfies the condition in subsection (2) of section 92 (assignments by way of exchange), or

(ii) to an assured tenant who satisfies the conditions in subsection (2A) of that section.

99B Persons qualifying for compensation.

(1) A person is a qualifying person for the purposes of section 99A(2) if—

(a) he is, at the time when the tenancy comes to an end, the tenant or, in the case of a joint tenancy at that time, one of the tenants, and

(b) he is a person to whom subsection (2) applies.

(2) This subsection applies to—

(a) the improving tenant;

(b) a person who became a tenant jointly with the improving tenant;

(c) a person in whom the tenancy was vested, or to whom the tenancy was disposed of, under section 89 (succession to periodic tenancy) or section 90 (devolution of term certain) on the death of the improving tenant or in the course of the administration of his estate;

(d) a person to whom the tenancy was assigned by the improving tenant and who would have been qualified to succeed him if he had died immediately before the assignment;

(e) a person to whom the tenancy was assigned by the improving tenant in pursuance of an order made under section 24 of the Matrimonial Causes Act 1973 (property adjustment orders in connection with matrimonial proceedings);

(f) a spouse or former spouse of the improving tenant to whom the tenancy has been transferred by an order under paragraph 2 of Schedule 1 to the Matrimonial Homes Act 1983.

(3) Subsection (2)(c) does not apply in any case where the tenancy ceased to be a secure tenancy by virtue of section 89(3) or, as the case may be, section 90(3).

(4) Where, in the case of two or more qualifying persons, one of them ("the missing person") cannot be found—

(a) a claim under regulations made under section 99A may be made by, and compensation under those regulations may be paid to, the other qualifying person or persons; but

(b) the missing person shall be entitled to recover his share of any compensation so paid from that person or those persons.

(5) In this section "the improving tenant" means—

(a) the tenant by whom the improvement mentioned in section 99A(1) was made, or

(b) in the case of a joint tenancy at the time when the improvement was made, any of the tenants at that time."

Commencement Information

I28 S. 122 wholly in force at 1.2.1994 (subject to art. 5 of S.I. 1993/2762) see **s. 188(2)** and S.I. 1993/2762, **art. 4(b)**

123 Right to information.

After subsection (2) of section 104 of the 1985 Act (provision of information about tenancies) there shall be inserted the following subsection—

"(3) A local authority which is the landlord under a secure tenancy shall supply the tenant, at least once in every relevant year, with a copy of such information relating to the provisions mentioned in subsection (1)(b) and (c) as was last published by it; and in this subsection "relevant year" means any period of twelve months beginning with an anniversary of the date of such publication."

124 Existing rights with respect to disposals by housing action trusts.

(1) In subsection (2)(b) of section 79 of the [M78]Housing Act 1988 (disposals by housing action trusts), the words "in accordance with section 84 below" shall be omitted.

(2) For subsection (1) of section 84 of that Act (provisions applicable to disposals of dwelling-houses let on secure tenancies) there shall be substituted the following subsection—

"(1) The provisions of this section apply in any case where—

(a) a housing action trust proposes to make a disposal of one or more houses let on secure tenancies which would result in a person who, before the disposal, is a secure tenant of the trust becoming, after the disposal, the tenant of another person, and

(b) that other person is not a local housing authority or other local authority."

(3) In subsection (7) of that section—

(a) after the words "a disposal to which this section applies," there shall be inserted the words " or a disposal which would be such a disposal if subsection (1)(b) above were omitted, "; and

(b) after the words "such further consultation" there shall be inserted the words " or, as the case may be, such consultation ".

[F93](4) . . . . . .

[F93](5) . . . . . .

[F93](6) . . . . . .

Textual Amendments

F93 S. 124(4)-(6) repealed (1.10.1996) by 1996 c. 52, s. 227, **Sch. 19 Pt.IX**; S.I. 1996/2402, **art. 3(b)** (with transitional savings in art. 3, Sch. para. 12)

Commencement Information

I29 S. 124 wholly in force at 11.10.1993 (subject to the transitional provisions and savings in Sch. 1 to 1993/2134) see s. 188(2) and S.I. 1993/2134, **art. 4(b)**

Marginal Citations

M78 1988 c. 50.

125 New rights with respect to such disposals.

(1) For subsections (2) and (3) of section 84 of the Housing Act 1988 (disposal by housing action trusts of dwelling-houses let on secure tenancies) there shall be substituted the following subsections—

"(2) Before applying to the Secretary of State for consent to the proposed disposal or serving notice under subsection (4) below, the housing action trust shall serve notice in writing on any local housing authority in whose area any houses falling within subsection (1) above are situated—

(a) informing the authority of the proposed disposal and specifying the houses concerned, and

(b) requiring the authority within such period, being not less than 28 days, as may be specified in the notice, to serve on the trust a notice under subsection (3) below.

(3) A notice by a local housing authority under this subsection shall inform the housing action trust, with respect to each of the houses specified in the notice under subsection (2) above which is in the authority's area, of the likely consequences for the tenant if the house were to be acquired by the authority."

(2) In subsection (4) of that section, for paragraphs (d) and (e) there shall be substituted the following paragraphs—

"(d) if the local housing authority in whose area the house of which he is tenant is situated has served notice under subsection (3) above, informing him (in accordance with the information given in the notice) of the likely consequences for him if the house were to be acquired by that authority;

(e) informing him, if he wishes to become a tenant of that authority, of his right to make representations to that effect under paragraph (f) below and of the rights conferred by section 84A below;".

(3) For subsection (5) of that section there shall be substituted the following subsections—

"(5) If, by virtue of any representations made to the housing action trust in accordance with subsection (4)(f) above, section 84A below applies in relation to any house or block of flats, the trust shall—

(a) serve notice of that fact on the Secretary of State, on the local housing authority and on the tenant of the house or each of the tenants of the block, and

(b) so amend its proposals with respect to the disposal as to exclude the house or block;

and in this subsection "house" and "block of flats" have the same meanings as in that section.

(5A) The housing action trust shall consider any other representations so made and, if it considers it appropriate to do so having regard to any of those representations—

(a) may amend (or further amend) its proposals with respect to the disposal, and

(b) in such a case, shall serve a further notice under subsection (4) above (in relation to which this subsection will again apply).”

(4) In subsection (6) of that section, after the words “subsection (5)” there shall be inserted the words “ or subsection (5A) ”.

(5) After that section there shall be inserted the following section—

“**84A Transfer by order of certain dwelling-houses let on secure tenancies.**

(1) This section applies in relation to any house or block of flats specified in a notice under subsection (2) of section 84 above if—

(a) in the case of a house, the tenant makes representations in accordance with paragraph (f) of subsection (4) of that section to the effect that he wishes to become a tenant of the local housing authority in whose area the house is situated; or

(b) in the case of a block of flats, the majority of the tenants who make representations in accordance with that paragraph make representations to the effect that they wish to become tenants of the local housing authority in whose area the block is situated.

(2) The Secretary of State shall by order provide for the transfer of the house or block of flats from the housing action trust to the local housing authority.

(3) The Secretary of State may also by order transfer from the housing action trust to the local housing authority so much as appears to the Secretary of State to be appropriate of any property belonging to or usually enjoyed with the house or, as the case may be, the block or any flat contained in it; and for this purpose “property” includes chattels of any description and rights and liabilities, whether arising by contract or otherwise.

(4) A transfer of any house, block of flats or other property under this section shall be on such terms, including financial terms, as the Secretary of State thinks fit; and an order under this section may provide that, notwithstanding anything in section 141 of the Law of Property Act 1925 (rent and benefit of lessee’s covenants to run with the reversion), any rent or other sum which—

(a) arises under the tenant’s tenancy or any of the tenants’ tenancies, and

(b) falls due before the date of the transfer,

shall continue to be recoverable by the housing action trust to the exclusion of the authority.

(5) Without prejudice to the generality of subsection (4) above, the financial terms referred to in that subsection may include provision for payments to a local housing authority (as well as or instead of payments by a local housing authority); and the transfer from a housing action trust of any house, block of flats or other property by virtue of this section shall not be taken to give rise to any right to compensation.

(6) In this section—

"block of flats" means a building containing two or more flats;

"common parts", in relation to a building containing two or more flats, means any parts of the building which the tenants of the flats are entitled under the terms of their tenancies to use in common with each other;

"flat" and "house" have the meanings given by section 183 of the Housing Act 1985;

and any reference to a block of flats specified in a notice under section 84(2) above is a reference to a block in the case of which each flat which is let on a secure tenancy is so specified.

(7) For the purposes of subsection (6) above, a building which contains—

(a) one or more flats which are let, or available for letting, on secure tenancies by the housing action trust concerned, and

(b) one or more flats which are not so let or so available,

shall be treated as if it were two separate buildings, the one containing the flat or flats mentioned in paragraph (a) above and the other containing the flat or flats mentioned in paragraph (b) above and any common parts."

Commencement Information

I30 S. 125 wholly in force at 11.10.1993 (subject to the transitional provisions and savings in Sch. 1 to 1993/2134) see s. 188(2) and S.I. 1993/2134, **art. 4(b)**

Housing welfare services

126 Provision of housing welfare services.

Part II of the 1985 Act (provision of housing accommodation) shall have effect, and be deemed at all times on and after 1st April 1990 to have had effect, as if after section 11 there were inserted the following section—

"**11A Provision of welfare services.**

(1) A local housing authority may provide in connection with the provision of housing accommodation by them (whether or not under this Part) such welfare services, that is to say, services for promoting the welfare of the persons for whom the accommodation is so provided, as accord with the needs of those persons.

(2) The authority may make reasonable charges for welfare services provided by virtue of this section.

(3) In this section "welfare services" does not include the repair, maintenance, supervision or management of houses or other property.

(4) The powers conferred by this section shall not be regarded as restricting those conferred by section 137 of the Local Government Act 1972 (powers to incur expenditure for purposes not authorised by any other enactment) and

accordingly the reference to any other enactment in subsection (1)(a) of that section shall not include a reference to this section."

127 Accounting for housing welfare services.

Schedule 4 to the [M79]Local Government and Housing Act 1989 (the keeping of the Housing Revenue Account) shall have effect, and be deemed always to have had effect, as if—

(a) at the end of paragraph (b) of item 2 of Part I (credits to the account) there were inserted the words " or income in respect of services provided under section 11A of that Act (power to provide welfare services) "; and

(b) after paragraph 3 of Part III (special cases) there were inserted the following paragraph—

"3A **Provision of welfare services**

(1) This paragraph applies where in any year a local housing authority provide welfare services (within the meaning of section 11A of the [M80]Housing Act 1985) for persons housed by them in houses or other property within their Housing Revenue Account.

(2) The authority may carry to the credit of the account—

(a) an amount equal to the whole or any part of the income of the authority for the year from charges in respect of the provision of those services;

(b) any sum from some other revenue account of theirs which represents the whole or any part of that income.

(3) The authority may carry to the debit of the account—

(a) an amount equal to the whole or any part of the expenditure of the authority for the year in respect of the provision of those services;

(b) any sum from some other revenue account of theirs which represents the whole or any part of that expenditure."

Modifications etc. (not altering text)

C3 S. 127 restricted (12.1.1994) by S.I. 1994/42, art.2, **Sch.**; and (9.10.1995) by S.I. 1995/2720, art.2, **Sch.**

Marginal Citations

M79 1989 c. 42.

M80 1985 c. 68.

128 Power to repeal provisions made by sections 126 and 127.

(1) The Secretary of State may at any time by order made by statutory instrument provide that, on such day or in relation to such periods as may be appointed by the order, the provisions made by sections 126 and 127—

(a) shall cease to have effect; or

(b) shall cease to apply for such purposes as may be specified in the order.

(2) An order under this section—

(a) may appoint different days or periods for different provisions or purposes or for different authorities or descriptions of authority, and

(b) may contain such incidental, supplementary or transitional provisions as appear to the Secretary of State to be necessary or expedient.

Delegation of housing management

129 Management agreements.

(1) At the end of subsection (3) of section 27 of the 1985 Act (management agreements), there shall be inserted the words " and shall contain such provisions as may be prescribed by regulations made by the Secretary of State ".

(2) For subsection (5) of that section there shall be substituted the following subsection—

"(5) The Secretary of State's approval may be given—

(a) either generally to all local housing authorities or to a particular authority or description of authority, and

(b) either in relation to a particular case or in relation to a particular description of case,

and may be given unconditionally or subject to conditions."

(3) For subsection (6) of that section there shall be substituted the following subsections—

"(6) References in this section to the management functions of a local housing authority in relation to houses or land—

(a) do not include such functions as may be prescribed by regulations made by the Secretary of State, but

(b) subject to that, include functions conferred by any statutory provision and the powers and duties of the authority as holder of an estate or interest in the houses or land in question.

(7) Regulations under this section—

(a) may make different provision with respect to different cases or descriptions of case, including different provision for different areas,

(b) may contain such incidental, supplementary or transitional provisions as appear to the Secretary of State to be necessary or expedient, and

(c) shall be made by statutory instrument which shall be subject to annulment in pursuance of a resolution of either House of Parliament."

F94 130 . . . . . .

Textual Amendments

F94 S. 130 repealed (1.10.1996) by 1996 c. 52, s. 227, **Sch. 19 Pt.X**; S.I. 1996/2402, **art.3**

F95 131 . . . . . .

Textual Amendments

F95 S. 131 repealed (1.10.1996) by 1996 c. 52, s. 227, **Sch. 19 Pt.X**; S.I. 1996/2402, **art.3**

132 Management agreements with tenant management organisations.

(1) After section 27AA of the 1985 Act there shall be inserted the following section—

"**27AB Management agreements with tenant management organisations.**

(1) The Secretary of State may make regulations for imposing requirements on a local housing authority in any case where a tenant management organisation serves written notice on the authority proposing that the authority should enter into a management agreement with that organisation.

(2) The regulations may make provision requiring the authority—

(a) to provide or finance the provision of such office accommodation and facilities, and such training, as the organisation reasonably requires for the purpose of pursuing the proposal;

(b) to arrange for such feasibility studies with respect to the proposal as may be determined by or under the regulations to be conducted by such persons as may be so determined;

(c) to arrange for such ballots or polls with respect to the proposal as may be determined by or under the regulations to be conducted of such persons as may be so determined; and

(d) in such circumstances as may be prescribed by the regulations (which shall include the organisation becoming registered if it has not already done so), to enter into a management agreement with the organisation.

(3) The regulations may make provision with respect to any management agreement which is to be entered into in pursuance of the regulations—

(a) for determining the houses and land to which the agreement should relate, and the amounts which should be paid under the agreement to the organisation;

(b) requiring the agreement to be in such form as may be approved by the Secretary of State and to contain such provisions as may be prescribed by the regulations;

(c) requiring the agreement to take effect immediately after the expiry or other determination of any previous agreement; and

(d) where any previous agreement contains provisions for its determination by the authority, requiring the authority to determine it as soon as may be after the agreement is entered into.

(4) The regulations may also make such procedural, incidental, supplementary and transitional provisions as may appear to the Secretary of State necessary or expedient, and may in particular make provision—

(a) for particular questions arising under the regulations to be determined by the authority;

(b) for other questions so arising to be determined by an arbitrator agreed to by the parties or, in default of agreement, appointed by the Secretary of State;

(c) requiring any person exercising functions under the regulations to act in accordance with any guidance given by the Secretary of State; and

(d) for enabling the authority, if invited to do so by the organisation concerned, to nominate one or more persons to be directors or other officers of any tenant management organisation with whom the authority have entered into, or propose to enter into, a management agreement.

(5) Nothing in subsections (2) to (4) above shall be taken as prejudicing the generality of subsection (1).

(6) Regulations under this section—

(a) may make different provision with respect to different cases or descriptions of case, including different provision for different areas, and

(b) shall be made by statutory instrument which shall be subject to annulment in pursuance of a resolution of either House of Parliament.

(7) Except as otherwise provided by regulations under this section—

(a) a local housing authority shall not enter into a management agreement with a tenant management organisation otherwise than in pursuance of the regulations; and

(b) the provisions of the regulations shall apply in relation to the entering into of such an agreement with such an organisation in place of—

(i) the provisions of section 27A (consultation with respect to management agreements),

(ii) in the case of secure tenants, the provisions of section 105 (consultation on matters of housing management), and

(iii) in the case of an organisation which is associated with the authority, the provisions of section 33 of the Local Government Act 1988 (restrictions on contracts with local authority companies).

(8) In this section—

"arbitrator" means a member of a panel approved for the purposes of the regulations by the Secretary of State;

"associated" shall be construed in accordance with section 33 of the Local Government Act 1988;

"previous agreement", in relation to an agreement entered into in pursuance of the regulations, means a management agreement previously entered into in relation to the same houses and land;

"registered" means registered under the Industrial and Provident Societies Act 1965 or the Companies Act 1985;

"tenant management organisation" means a body which satisfies such conditions as may be determined by or under the regulations."

(2) Section 27C of the 1985 Act (which is superseded by this section) shall cease to have effect.

Commencement Information

I31 S. 132 wholly in force; s. 132 not in force at Royal Assent see s. 188(2); s. 132 in force for certain purposes at 10.11.1993 by S.I. 1993/2762, **art. 3**; otherwise 1.4.1994 by S.I. 1994/935, **art. 3**

Priority of charges securing repayment of discount

133 Voluntary disposals by local authorities.

(1) For subsection (2) of section 36 of the 1985 Act (liability to repay discount is a charge on the premises) there shall be substituted the following subsections—

"(2) Subject to subsections (2A) and (2B), the charge has priority immediately after any legal charge securing an amount—

(a) left outstanding by the purchaser, or

(b) advanced to him by an approved lending institution for the purpose of enabling him to acquire the interest disposed of on the first disposal.

(2A) The following, namely—

(a) any advance which is made otherwise than for the purpose mentioned in subsection (2)(b) and is secured by a legal charge having priority to the charge taking effect by virtue of this section, and

(b) any further advance which is so secured,

shall rank in priority to that charge if, and only if, the local authority by written notice served on the institution concerned gives their consent; and the local authority shall so give their consent if the purpose of the advance or further advance is an approved purpose.

(2B) The local authority may at any time by written notice served on an approved lending institution postpone the charge taking effect by virtue of this section to any advance or further advance which—

(a) is made to the purchaser by that institution, and

(b) is secured by a legal charge not having priority to that charge;

and the local authority shall serve such a notice if the purpose of the advance or further advance is an approved purpose."

(2) After subsection (4) of that section there shall be inserted the following subsections—

"(5) The approved purposes for the purposes of this section are—

(a) to enable the purchaser to defray, or to defray on his behalf, any of the following—

(i) the cost of any works to the house,

(ii) any service charge payable in respect of the house for works, whether or not to the house, and

(iii) any service charge or other amount payable in respect of the house for insurance, whether or not of the house, and

(b) to enable the purchaser to discharge, or to discharge on his behalf, any of the following—

(i) so much as is still outstanding of any advance or further advance which ranks in priority to the charge taking effect by virtue of this section,

(ii) any arrears of interest on such an advance or further advance, and

(iii) any costs and expenses incurred in enforcing payment of any such interest, or repayment (in whole or in part) of any such advance or further advance.

(6) Where different parts of an advance or further advance are made for different purposes, each of those parts shall be regarded as a separate advance or further advance for the purposes of this section."

Commencement Information

I32 S. 133 wholly in force at 11.10.1993 (subject to the transitional provisions and savings in Sch. 1 to 1993/2134) see s. 188(2) and S.I. 1993/2134, **art. 4(b)**

F96 134 . . . . . .

Textual Amendments

F96 S. 134 repealed (1.10.1996) by 1996 c. 52, s. 227, **Sch. 19 Pt.I**; S.I. 1996/2402, **art. 3(a)**

Disposals of dwelling-houses by local authorities

135 Programmes for disposals.

(1) For the purposes of this section a disposal of one or more dwelling-houses by a local authority to any person (in this section referred to as a "disposal") is a qualifying disposal if—

(a) it requires the consent of the Secretary of State under section 32 of the 1985 Act (power to dispose of land held for the purposes of Part II), or section 43 of that Act (consent required for certain disposals not within section 32); and

(b) the aggregate of the following, namely—

(i) the number of dwelling-houses included in the disposal; and

(ii) the number of dwelling-houses which, within the relevant period, have been previously disposed of by the authority to that person, or that person and any associates of his taken together,

exceeds 499 or, if the Secretary of State by order so provides, such other number as may be specified in the order.

(2) In subsection (1) "the relevant period" means—

(a) the period of five years ending with the date of the disposal or, if that period begins before the commencement of this section, so much of it as falls after that commencement; or

(b) if the Secretary of State by order so provides, such other period ending with that date and beginning after that commencement as may be specified in the order.

[F97(2A) The Secretary of State may prepare a disposals programme for any financial year.**]**

(3) A local authority shall not make a qualifying disposal F98. . . unless the Secretary of State has included the disposal in a disposals programme prepared by him F98. . . .

[F99(3A) Where the Secretary of State has included a disposal in a disposals programme for a financial year, a local authority may make a qualifying disposal under that programme in that or the following financial year.**]**

(4) A disposal may be included in a disposals programme for a financial year either—

(a) by specifically including the disposal in the programme; or

(b) by including in the programme a description of disposal which includes the disposal.

(5) An application by a local authority for the inclusion of a disposal in a disposals programme for a financial year—

(a) shall be made in such manner and contain such information; and

(b) shall be made before such date,

as the Secretary of State may from time to time direct.

(6) In preparing a disposals programme for any financial year, the Secretary of State shall secure that the aggregate amount of his estimate of the exchequer costs of each of the disposals included in the programme does not exceed such amount as he may, with the approval of the Treasury, determine.

(7) In deciding whether to include a disposal in a disposals programme for a financial year or, having regard to subsection (6), which disposals to include in such a programme, the Secretary of State may, in relation to the disposal or (as the case may be) each disposal, have regard in particular to—

(a) his estimate of the exchequer costs of the disposal;

(b) whether or not a majority of the secure tenants **[**F100and introductory tenants**]** who would be affected by the disposal are (in his opinion) likely to oppose it; and

(c) the matters mentioned in section 34(4A) or 43(4A) (as the case may be) of the 1985 Act;

and in this subsection "secure tenant" has the same meaning as in Part IV of that Act **[**F100and "introductory tenant" has the same meaning as in Chapter I of Part V of the Housing Act 1996**]**.

(8) In subsections (6) and (7) "the exchequer costs", in relation to a disposal, means any increase which is or may be attributable to the disposal in the aggregate of any subsidies payable under—

(a) **[**F101section 140A of the M81Social Security Administration Act 1992 (subsidy)**]**; or

(b) section 79 of the 1989 Act (Housing Revenue Account subsidy);

and the Secretary of State's estimate of any such increase shall be based on such assumptions (including assumptions as to the period during which such subsidies may be payable) as he may, with the approval of the Treasury, from time to time determine, regardless of whether those assumptions are or are likely to be borne out by events.

(9) The inclusion of a disposal in a disposals programme for a financial year shall not prejudice the operation of section 32 or 43 of the 1985 Act in relation to the disposal.

(10) The Secretary of State may prepare different disposals programmes under this section for different descriptions of authority; and any disposals programme may be varied or revoked by a subsequent programme.

(11) An order under this section—

(a) shall be made by statutory instrument which shall be subject to annulment in pursuance of a resolution of either House of Parliament;

(b) may make different provision for different cases or descriptions of case, or for different authorities or descriptions of authority; and

(c) may contain such transitional and supplementary provisions as the Secretary of State considers necessary or expedient.

(12) Any direction or determination under this section—

(a) may make different provision for different cases or descriptions of case, or for different authorities or descriptions of authority; and

(b) may be varied or revoked by a subsequent direction or determination.

(13) In this section—

"the 1989 Act" means the [M82]Local Government and Housing Act 1989;

"dwelling-house" has the same meaning as in Part V of the 1985 Act except that it does not include a hostel (as defined in section 622 of that Act) or any part of a hostel;

"local authority" has the meaning given by section 4 of that Act;

"long lease" means a lease for a term of years certain exceeding 21 years other than a lease which is terminable before the end of that term by notice given by or to the landlord;

[[F102]"subsidiary" has the same meaning as in section 61 of the Housing Act 1996 but as if the references in subsection (2) of that section and section 60 of that Act to registered social landlords and landlords were references to housing associations (within the meaning of the [M83]Housing Associations Act 1985).**]**

(14) For the purposes of this section—

(a) a disposal of any dwelling-house shall be disregarded if at the time of the disposal the local authority's interest in the dwelling-house is or was subject to a long lease;

(b) two persons are associates of each other if—

(i) one of them is a subsidiary of the other;

(ii) they are both subsidiaries of some other person; or

(iii) there exists between them such relationship or other connection as may be specified in a determination made by the Secretary of State; and

(c) a description of authority may be framed by reference to any circumstances whatever.

Textual Amendments

F97 S. 135(2A) inserted (20.2.2002) by The Deregulation (Disposals of Dwelling-houses by Local Authorities) Order 2002 (S.I. 2002/367), **art. 2(2)**

F98 Words in s. 135(3) omitted (20.2.2002) by virtue of The Deregulation (Disposals of Dwelling-houses by Local Authorities) Order 2002 (S.I. 2002/367), **art. 2(3)**

F99 S. 135(3A) inserted (20.2.2002) by The Deregulation (Disposals of Dwelling-houses by Local Authorities) Order 2002 (S.I. 2002/367), **art. 2(4)**

F100 Words in s. 135(7) inserted (12.2.1997) by S.I. 1997/74, art. 2, **Sch. para. 9(c)(i)(ii)**

F101 Words in s. 135(8) substituted (1.4.1997) by 1996 c. 52, s. 123, **Sch. 13 para.4**; S.I. 1997/618, **art. 2(1)**

F102 Definition in s. 135(13) substituted (1.10.1996) by S.I. 1996/2325, art. 5(1), **Sch. 2 para. 21(2)**

Marginal Citations

M81 1992 c. 5.

M82 1989 c. 42.

M83 1985 c. 69.

136 Levy on disposals.

(1) For the purposes of this section a disposal of one or more dwelling-houses by a local authority to any person is a qualifying disposal if—

(a) it requires the consent of the Secretary of State under section 32 of the 1985 Act (power to dispose of land held for the purposes of Part II), or section 43 of that Act (consent required for certain disposals not within section 32); and

(b) the aggregate of the following, namely—

(i) the number of dwelling-houses included in the disposal; and

(ii) the number of dwelling-houses which, within any relevant period, have been previously or are subsequently disposed of by the authority to that person, or that person and any associates of his taken together,

exceeds 499 or, if the Secretary of State by order so provides, such other number as may be specified in the order.

(2) In subsection (1) "relevant period" means—

(a) any period of five years beginning after the commencement of this section and including the date of the disposal; or

(b) if the Secretary of State by order so provides, any such other period beginning after that commencement and including that date as may be specified in the order.

(3) A local authority which after the commencement of this section makes a disposal which is or includes, or which subsequently becomes or includes, a qualifying disposal shall be liable to pay to the Secretary of State a levy of an amount calculated in accordance with the formula—

$$L = (\mathrm{CR} - D) \times P$$

where—

L = the amount of the levy;

CR = the aggregate of—

(i) any sums received by the authority in respect of the disposal which are, by virtue of section 58 of the 1989 Act (capital receipts), capital receipts for the purposes of Part IV of that Act and do not fall within a description determined by the Secretary of State; and

(ii) where paragraph (a) or (c) of subsection (1) of section 61 of that Act (capital receipts not wholly in money paid to the authority) applies in relation to the disposal, any notional capital receipts determined in accordance with subsections (2) and (3) of that section;

D = such amount as may be calculated in accordance with such formula as the Secretary of State may determine;

P = 20 per cent. or, if the Secretary of State by order so provides, such other percentage as may be specified in the order.

(4) A formula determined for the purposes of item D in subsection (3) may include any variable which is included in a determination made for the purposes of section 80 of the 1989 Act (calculation of Housing Revenue Account subsidy).

[[F103](4A) The power of the Secretary of State to determine a formula for the purposes of item D in subsection (3) shall include power to determine that, in such cases as he may determine, item D is to be taken to be equal to item CR.**]**

(5) The administrative arrangements for the payment of any levy under this section shall be such as may be specified in a determination made by the Secretary of State, and such a determination may in particular make provision as to—

(a) the information to be supplied by authorities;

(b) the form and manner in which, and the time within which, the information is to be supplied;

(c) the payment of the levy in stages in such circumstances as may be provided in the determination;

(d) the date on which payment of the levy (or any stage payment of the levy) is to be made;

(e) the adjustment of any levy which has been paid in such circumstances as may be provided in the determination;

(f) the payment of interest in such circumstances as may be provided in the determination; and

(g) the rate or rates (whether fixed or variable, and whether or not calculated by reference to some other rate) at which such interest is to be payable;

and any such administrative arrangements shall be binding on local authorities.

(6) Any amounts by way of levy or interest which are not paid to the Secretary of State as required by the arrangements mentioned in subsection (5) shall be recoverable in a court of competent jurisdiction.

(7) For the purposes of Part IV of the 1989 Act (revenue accounts and capital finance of local authorities) any payment of levy by a local authority under this section shall be treated as expenditure for capital purposes.

(8) Notwithstanding the provisions of section 64 of the 1989 Act (use of amounts set aside to meet credit liabilities) but subject to subsection (9), amounts for the time being

set aside by a local authority (whether voluntarily or pursuant to a requirement under Part IV of that Act) as provision to meet credit liabilities may be applied to meet any liability of the authority in respect of any levy payable under this section, other than a liability in respect of interest.

(9) The Secretary of State may by regulations provide that the amounts which may by virtue of subsection (8) be applied as mentioned in that subsection shall not exceed so much of the levy concerned as may be determined in accordance with the regulations.

(10) Any sums received by the Secretary of State under this section shall be paid into the Consolidated Fund; and any sums paid by the Secretary of State by way of adjustment of levies paid under this section shall be paid out of money provided by Parliament.

(11) Before making an order or determination under this section, the Secretary of State shall consult such representatives of local government as appear to him to be appropriate.

(12) An order or regulations under this section—

(a) shall be made by statutory instrument which shall be subject to annulment in pursuance of a resolution of either House of Parliament;

(b) may make different provision for different cases or descriptions of case, or for different authorities or descriptions of authority; and

(c) may contain such transitional and supplementary provisions as the Secretary of State considers necessary or expedient.

(13) Any determination under this section—

(a) may make different provision for different cases or descriptions of case, or for different authorities or descriptions of authority; and

(b) may be varied or revoked by a subsequent determination.

(14) Subsections (13) and (14) of section 135 shall apply for the purposes of this section as they apply for the purposes of that section.

Textual Amendments

F103 S. 136(4A) inserted (*retrospectively*) by 1997 c. 16, **s.109**

Modifications etc. (not altering text)

C4 S. 136 amended (28.11.1994) by S.I. 1994/2825, **reg. 53**

137 Disposals: transitional provisions.

(1) The period beginning with the commencement of section 135 and ending with 31st March 1994 (in this section referred to as "the first financial year") shall be treated as a financial year for the purposes of that section; but in relation to that period subsection (5) of that section shall not apply.

(2) If before the commencement of section 135 any statement was made by or on behalf of the Secretary of State—

(a) that, if that section were then in force, he would prepare under that section such disposals programmes for the first financial year as are set out in the statement, and

(b) that, when that section comes into force, he is to be regarded as having prepared under that section the programmes so set out,

those programmes shall have effect as if they had been validly made under that section at the time of the statement.

(3) Any determination or estimate made, or any approval given—

(a) before the commencement of section 135,

(b) before the making of such a statement as is mentioned in subsection (2), and

(c) in connection with the disposals programmes proposed to be set out in the statement,

shall be as effective, in relation to those programmes, as if that section had been in force at the time the determination or estimate was made, or the approval was given.

(4) If before the commencement of section 136 any statement was made by or on behalf of the Secretary of State—

(a) that, if that section were then in force, he would make under that section such determinations as are set out in the statement, and

(b) that, when that section comes into force, he is to be regarded as having made under that section the determinations set out in the statement,

those determinations shall have effect as if they had been validly made under that section at the time of the statement.

(5) Any consultation undertaken—

(a) before the commencement of section 136,

(b) before the making of such a statement as is mentioned in subsection (4), and

(c) in connection with determinations proposed to be set out in the statement,

shall be as effective, in relation to those determinations, as if that section had been in force at the time the consultation was undertaken.

Expenses on defective housing

138 Contributions in respect of certain post-March 1989 expenses.

(1) In section 157 of the [M84]Local Government and Housing Act 1989 (commutation of and interest on periodic payments of grants etc.), in subsection (8) (which changes certain contributions under section 569 of the 1985 Act from annual payments to lump sums), for paragraph (b) there shall be substituted the following paragraph—

"(b) so much of any contributions in respect of an expense incurred on or after 1st April 1989 and before 1st April 1990 as have not been made before 1st April 1990".

(2) This section shall be deemed to have come into force on 1st January 1993.

Marginal Citations

M84 1989 c. 42.

139 Contributions in respect of certain pre-April 1989 expenses.

(1) Where—

(a) before 1st April 1989 a local housing authority incurred any such expense as is referred to in subsection (1) of section 569 of the 1985 Act (assistance by

way of reinstatement grant, repurchase or payments for owners of defective housing); and

(b) before 1st January 1993, the Secretary of State has not made in respect of that expense any contribution of such a description as is referred to in subsection (2) of that section, as amended by section 157(8) of the Local Government and Housing Act 1989 (single commuted contributions),

any contributions in respect of that expense which are made under section 569 on or after 1st January 1993 shall be annual payments calculated and payable in accordance with the following provisions of this section.

(2) The amount of the annual payment in respect of any relevant financial year shall be a sum equal to the relevant percentage of the annual loan charges referable to the amount of the expense incurred.

(3) Notwithstanding that annual loan charges are calculated by reference to a 20 year period, annual payments made by virtue of this section shall be made only in respect of relevant financial years ending at or before the end of the period of 20 years beginning with the financial year in which, as the case may be—

(a) the work in respect of which the reinstatement grant was payable was completed;

(b) the acquisition of the interest concerned was completed; or

(c) the payment referred to in subsection (1)(c) of section 569 was made.

(4) Subsections (3) and (4) of section 569 (which determine the relevant percentage and the amount of the expense incurred) apply for the purposes of the preceding provisions of this section as they apply for the purposes of that section.

(5) Nothing in this section affects the operation of subsection (6) of section 569 (terms etc. for payment of contributions).

(6) In this section—

"the annual loan charges referable to the amount of the expense incurred" means the annual sum which, in the opinion of the Secretary of State, would fall to be provided by a local housing authority for the payment of interest on, and the repayment of, a loan of that amount repayable over a period of 20 years;

"relevant financial year" means the financial year beginning on 1st April 1991 and each successive financial year.

(7) This section shall be deemed to have come into force on 1st January 1993.

Housing Revenue Account subsidy

140 Calculation of Housing Revenue Account subsidy.

In subsection (1) of section 80 of the [M85]Local Government and Housing Act 1989 (determination of formulae for calculating Housing Revenue Account subsidy), the words "and for any year the first such determination shall be made before the 25th December immediately preceding that year" shall cease to have effect.

Marginal Citations
M85 1989 c. 42.

CHAPTER II

SCOTLAND

Rent to loan scheme

141 Eligibility for rent to loan scheme.

After section 62 of the [M86]Housing (Scotland) Act 1987 (in this Chapter referred to as "the 1987 Act") there shall be inserted the following section—

"**62A Eligibility for rent to loan scheme.**

(1) Subject to subsection (2), a tenant who has the right under section 61 to purchase a house may exercise the right by way of the rent to loan scheme.

(2) Subsection (1) does not apply—

(a) to the tenant of a house which is designated as defective under Part XIV; or

(b) to a tenant—

(i) in respect of whom a determination has been made that he is entitled to housing benefit in respect of any part of the relevant period; or

(ii) by or on behalf of whom a claim for housing benefit has been made (or is treated as having been made) and has not been determined or withdrawn.

(3) In subsection (2), "the relevant period" means the period—

(a) beginning twelve months before the date of the application to purchase the house; and

(b) ending on the day when the contract of sale of the house is constituted under section 66(2)."

Marginal Citations
M86 1987 c. 26.

142 The rent to loan scheme.

After section 73 of the 1987 Act there shall be inserted the following sections—

" Rent to loan scheme

73A The rent to loan scheme.

(1) Under the rent to loan scheme, the price fixed for a house under section 62 shall be payable in two elements, viz—

(a) the initial capital payment; and

(b) the deferred financial commitment.

(2) In the application of subsection (3) of section 62 to the price of a house being purchased by way of the rent to loan scheme, each of the percentage figures specified in that subsection shall be reduced by 15 or such other number as may, with the consent of the Treasury, be prescribed.

(3) The conditions which are, under section 64, to be contained in an offer to sell under section 63(2) shall, in the case of a house which is to be purchased by way of the rent to loan scheme, include a condition providing that the tenant will be entitled to ownership of the house in exchange for the initial capital payment.

(4) The deferred financial commitment shall be secured by a standard security over the house.

73B The initial capital payment.

(1) The initial capital payment in respect of a house is a sum determined by the tenant, being of an amount not less than the maximum amount of loan which could be repaid at the statutory rate of interest over the loan period by weekly payments each equal to the adjusted weekly rent for the house.

(2) In this section—

(a) the "statutory rate of interest" is the rate of interest which would be charged under section 219(4) on the application date by the local authority for the area in which the house is situated;

(b) the "loan period" is the period beginning on the application date and ending on whichever of the following is the earlier—

(i) the expiry of a period of 25 years starting on that date; and

(ii) the date when the applicant will (if he survives) reach pensionable age within the meaning of the Social Security Act 1975 or, in the case of joint applicants, the date when the one who will (if they both or all survive) reach pensionable age later than the other or the others reaches that age,

but if the period arrived at under sub-paragraph (ii) is less than 10 years, then the loan period shall be a period of 10 years beginning on the application date;

(c) the "adjusted weekly rent" is an amount equal to 90 per cent of the weekly rent for the house payable as at the application date; and

(d) the "application date" is the date of the application to purchase the house.

73C The deferred financial commitment.

(1) The deferred financial commitment in respect of a house is the sum arrived at by—

(a) finding the difference between—

(i) the price which was fixed for the purchase of the house under section 62(1); and

(ii) the initial capital payment;

(b) expressing that difference as a percentage of the market value which was determined under section 62(2) for the purpose of fixing the price of the house;

(c) reducing that percentage figure by—

(i) 7 or such other number as may, with the consent of the Treasury, be prescribed; and

(ii) in a case where payment has been made under subsection (4), the percentage figure which the amount so paid represents in relation to the market value mentioned in paragraph (b);

(d) finding the sum which is equal to that resultant percentage of the resale value of the house; and

(e) in a case to which subsection (5) of section 73D applies, adding to that sum the amount which falls to be added under subsection (6) of that section.

(2) No interest shall accrue on the deferred financial commitment.

(3) Payment of the deferred financial commitment—

(a) shall, subject to section 73D, be made to the original seller of the house—

(i) on the sale or other disposal of the house by the rent to loan purchaser; or

(ii) if the rent to loan purchaser does not sell or dispose of it, on his death; and

(b) may be so made in whole at any earlier time.

(4) Subject to section 73D(3), payment may be made at any time for the purpose of reducing the deferred financial commitment in accordance with subsection (1)(c)(ii).

(5) Subject to subsection (6), payment of the deferred financial commitment shall be made as soon as may be after the destruction of or damage to the house by fire, tempest, flood or any other cause against the risk of which it is normal practice to insure.

(6) Subsection (5) does not apply where, following the destruction of or damage to a house, it is rebuilt or reinstated.

(7) A standard security granted in security of the deferred financial commitment shall, notwithstanding section 13 of the Conveyancing and Feudal Reform (Scotland) Act 1970, have priority before any standard security securing the liability to make a repayment under section 72(1) but immediately after—

(a) any standard security granted in security of any amount advanced by a recognised lending institution—

(i) to enable payment of the initial capital payment or payment under subsection (4);

(ii) for the improvement of the house; or

(iii) for any combination of those purposes,

(together with any interest, expenses and outlays payable thereunder); and

(b) with the consent of the original seller, a standard security over the house granted in security of any other loan (together with any such interest, expenses and outlays).

In this subsection—

a "recognised lending institution" is one which is recognised for the purposes of section 222;

references to interest payable under a standard security are references both to present and future interest payable thereunder including interest which has accrued or may accrue; and

references to expenses and outlays include interest thereon.

(8) In this section—

(a) the "resale value" of a house is, subject to subsections (9) and (10)—

(i) where it is being sold by the rent to loan purchaser on the open market with vacant possession and a good and marketable title, the price at which it is being so sold;

(ii) where the rent to loan purchaser has died not having sold or disposed of it, its value for the purpose of confirmation to his estate;

(iii) in any other case, such amount as is agreed for the purposes of this sub-paragraph between the rent to loan purchaser and the original seller or, failing such agreement, such amount as is determined for those purposes by an independent valuer as the value of the house, assuming it to be available for sale in the circumstances specified in sub-paragraph (i) on a date as near as may be to the date when payment of the deferred financial commitment is to be made; and

(b) the "original seller" of a house is the body which, as the landlord of the house, sold it in pursuance of this Part to the rent to loan purchaser or, where another body has succeeded to the rights and duties of that body in relation to the house, that other body.

(9) In arriving at the resale value of a house no account shall be taken of—

(a) anything done by the rent to loan purchaser (or any predecessor of his as secure tenant of the house) which has added to the value of the house; or

(b) any failure by him (but not by any such predecessor) to keep the house in good repair (including decorative repair).

(10) For the purposes of agreeing or determining the amount of the resale value of a house under subsection (8)(a)(iii) in a case where it has been destroyed or damaged by a cause referred to in subsection (5), that value shall be taken as

including the value of any sums paid or falling to be paid to the rent to loan purchaser under a policy insuring against the risk of the cause of destruction of or damage to the house except to the extent that they have been or fall to be applied in meeting the cost of any rebuilding or reinstatement which has been carried out.

73D Deferred financial commitment: further provisions.

(1) This subsection applies where—

(a) the person who has purchased a house by way of the rent to loan scheme sells or otherwise disposes of it to his spouse or any other person with whom he is living as if they were husband and wife and the house is, at the time of the sale or disposal, the spouse's or other person's only or principal home;

(b) the person who has so purchased the house dies and there succeeds to the house, by operation of the law of succession, a person for whom or persons for whom or for one or more of whom the house was, for the period of 12 months immediately preceding the death, his or their only or principal home; or

(c) in the case of a house which was so purchased jointly, one of the joint purchasers dies and, at the time of the death, the house was the only or principal home of the survivor or the survivors or one or more of them.

(2) Where subsection (1) applies—

(a) the deferred financial commitment shall not be payable on the sale, disposal or death referred to in paragraph (a) of subsection (3) of section 73C but on the sale or other disposal of the house by the person or persons acquiring it, succeeding to it or surviving in the circumstances whereby subsection (1) applies or on the death of such person or of the last of them for whom the house was, both at the time of such acquisition, succession or survival and at the time of his death, his only or principal home; and

(b) paragraph (b) of the said subsection (3) shall have effect accordingly.

(3) A payment made under section 73C(4) shall not—

(a) be less than £1500 or such other sum as may, with the consent of the Treasury, be prescribed;

(b) exceed the statutory maximum; or

(c) be made within the period of one year after any previous such payment in respect of the same transaction.

(4) In subsection (3)(b), the "statutory maximum" is the amount by which the initial capital payment would be required to be augmented so as to produce, by operation of the calculations specified in paragraphs (a) to (c) of section 73C(1), a resultant percentage of 7.5% or such other percentage as may, with the consent of the Treasury, be prescribed.

(5) This subsection applies where—

(a) the subtraction of discount for the purposes of section 62(1) falls to be limited or excluded by operation of subsection (6A) of that section; and

(b) any part of those costs which, in accordance with that subsection, are to be represented by an amount arrived at under that subsection, was

incurred in the period commencing with the beginning of the financial year of the landlord which was current 5 years prior to the date of payment in whole of the deferred financial commitment.

(6) Where subsection (5) applies, the amount which is, under section 73C(1)(e), to be added is an amount equal to the difference between the aggregate of the amounts mentioned in paragraph (a) and the amount mentioned in paragraph (b) —

(a) the initial capital payment and the deferred financial commitment (including any payment under section 73C(4)) which would be payable apart from this subsection;

(b) the price which would have been payable under section 62 had the purchase of the house proceeded otherwise than by way of the rent to loan scheme."

143 Rent to loan scheme: related amendments.

(1) The 1987 Act shall have effect subject to the following amendments (being amendments related to the rent to loan scheme).

(2) In section 63—

(a) in subsection (1), after paragraph (c) there shall be inserted the following "; and

(d) in the case of a tenant who is entitled to purchase the house by way of the rent to loan scheme, a statement whether he wishes to proceed so to purchase the house.";

(b) in subsection (2), after paragraph (c), there shall be inserted the following paragraph—

"(cc) where the application to purchase contains a statement under subsection (1)(d) that the applicant wishes to proceed by way of the rent to loan scheme and the statement has not been withdrawn, the minimum amount of the initial capital payment, a statement that the applicant, if so minded, may make an initial capital payment greater than the minimum and a description of the deferred financial commitment including—

(i) the amount of the deferred financial commitment calculated as if due to be paid as at the date of the offer to sell;

(ii) an explanation of why and how the amount of the deferred financial commitment when payable under section 73C(3)(a) can vary from its amount as calculated under sub-paragraph (i); and

(iii) the procedure for paying the deferred financial commitment."

(c) at the end there shall be inserted the following subsection—

"(3) Where, in response to an offer to sell containing the matters referred to in paragraph (cc) of subsection (2), an applicant has informed a landlord in writing of his intention to make an initial capital payment of an amount greater than the minimum, the landlord shall, before the end of the period specified in subsection (2) or, if later,

the expiry of one month from the date when the landlord was so informed of the tenant's intention, serve an amended offer to sell in which the calculation of the deferred financial commitment is revised accordingly."

(3) In section 67, there shall be inserted at the end the following subsection—

"(4) This section does not apply where the tenant is exercising his right to purchase under section 61 by way of the rent to loan scheme."

(4) In section 71—

(a) in subsection (1)—

(i) in paragraph (a), after "offer", in both places where it occurs, there shall be inserted " or amended offer ";

(ii) in paragraph (d), after "offer" there shall be inserted " or amended offer " and there shall be added at the end " and, in the case of an amended offer, they do not conform with the requirements of section 63(3) "; and

(b) in subsection (2)—

(i) in paragraph (b), after "offer" there shall be inserted " or amended offer "; and

(ii) after "63(2)"there shall be inserted " and, in the case of an amended offer, under section 63(3) ".

(5) In section 82—

(a) after "20" there shall be inserted " 214 "; and

(b) the following definitions shall be inserted at the appropriate places—

"the "rent to loan purchaser" of a house is the person who exercised his right to purchase it under section 61 by way of the rent to loan scheme or, where section 73D(1) applies, the person whose selling or otherwise disposing of the house or whose death is, by virtue of subsection (2) of that section, the occasion for payment of the deferred financial commitment, that person;

"rent to loan scheme" means the provisions of sections 62A and 73A to 73D."

(6) In section 214, there shall be inserted at the end the following subsection—

"(9) This section applies to the deferred financial commitment as it applies to an advance and references in it and in section 215 to the making of advances shall be construed as references to such functions of a local authority under the rent to loan scheme as relate to the creation of the deferred financial commitment, but Schedule 17 shall not so apply."

(7) In section 216, there shall be inserted at the end the following subsection—

"(10) This section does not apply in the case of the purchase of a house by way of the rent to loan scheme."

Right to purchase

144 Abatement of purchase price.

After section 66 of the 1987 Act there shall be inserted the following sections—

"**66A Abatement of purchase price on landlord's failure before contract of sale.**

(1) Where a tenant who seeks to exercise a right to purchase a house under section 61 has served an application to purchase on the landlord and the landlord—

(a) not having served a notice of refusal, has failed to serve an offer to sell on the tenant within 2 months of the application or, where an amended offer to sell falls to be served on the tenant under subsection (3) of section 63, has failed to do so within the time limit specified in that subsection;

(b) having agreed to serve an amended offer to sell on the tenant in response to a request under section 65(1), has failed to do so within one month of the request;

(c) following an order by the Lands Tribunal to serve an amended offer to sell on the tenant under section 65(3), has failed to do so within 2 months of the date of the order;

(d) following a finding by the Lands Tribunal under section 68(4), has failed to serve an offer to sell within 2 months of the date of the finding; or

(e) following an order by the Lands Tribunal under section 71(2)(b), has failed to serve an offer or amended offer to sell within the time specified in the order,

the tenant may serve on the landlord a notice in writing requiring the landlord to serve on him, within one month of the date of the notice, the offer to sell or (as the case may be) the amended offer to sell which the landlord has failed to serve.

(2) Where the landlord fails to serve the offer to sell or the amended offer to sell within one month of the date of the notice in writing under subsection (1), the price fixed under section 62 shall be reduced by the amount of rent paid by the tenant during the period commencing with the date on which the one month period expired and ending with the date on which the offer is served.

66B Abatement of purchase price on landlord's failure after contract of sale.

(1) Where the landlord has failed and continues to fail to deliver a good and marketable title to the tenant in accordance with the contract of sale, the tenant may at any time serve on the landlord a notice (the "initial notice of delay") setting out the landlord's failure and specifying—

(a) the most recent action of which the tenant is aware which has been taken by the landlord in fulfilment of his duties under this Part;

(b) a period (the "response period"), of not less than one month beginning on the date of service of the notice, within which the service by the

landlord of a counter notice under subsection (2) will have the effect of cancelling the initial notice of delay.

(2) If there is no action under this Part which, at the beginning of the response period it was for the landlord to take in order to grant a good and marketable title to the tenant in implementation of the contract of sale, the landlord may serve on the tenant a counter notice either during or after the response period.

(3) At any time when—

(a) the response period specified in the initial notice of delay has expired; and

(b) the landlord has not served a counter notice under subsection (2),

the tenant may serve on the landlord a notice (the "operative notice of delay") that this subsection shall apply to the price fixed under section 62; and thereupon the price fixed under section 62 shall be reduced by the amount of rent paid by the tenant during the period commencing with the date of service of the operative notice of delay and ending with whichever is the earlier of the following dates—

(i) the date of service by the landlord of a counter notice; or

(ii) the date of delivery by the landlord of a good and marketable title in implementation of the contract of sale.

(4) Where the landlord has served a counter notice under subsection (2) the tenant (together with any joint purchaser) may, by serving on the clerk to the Lands Tribunal a copy of the initial notice of delay and of the landlord's counter notice together with a request for the matter to be so referred, refer the matter to the Tribunal for its consideration under subsection (5).

(5) Where the matter has been so referred to the Lands Tribunal it shall consider whether or not in its opinion action which would have enabled a good and marketable title to be delivered in implementation of the contract of sale could have been taken by the landlord and shall find accordingly.

(6) Where the Lands Tribunal finds that action could have been taken by the landlord the tenant shall be entitled to serve an operative notice of delay as if the landlord had not served a counter notice and in that event the commencement date for the purposes of subsection (3) shall be the date on which an operative notice of delay could first have been served if no counter notice had been served.

66C Provisions relating to sections 66A and 66B.

(1) Where there is more than one period in respect of which the price fixed under section 62 can be reduced under section 66A(2) or 66B(3), the periods may be aggregated and the price reduced by the total amount of the rent.

(2) If the period in respect of which the price fixed can be so reduced is, or if the periods aggregated under subsection (1) together amount to, more than twelve months, the amount by which the price fixed under section 62 would, apart from this subsection, fall to be reduced shall be increased by 50% or such other percentage as the Secretary of State may by order made by statutory instrument and subject to annulment in pursuance of a resolution of either House of Parliament provide."

145 Effect of abatement of purchase price on recovery of discount.

In section 72 of the 1987 Act (recovery of discount on early resale), after subsection (1) there shall be inserted the following subsection—

"(1A) Where a tenant has served on the landlord a notice under section 66A(1), the commencement of the period of 3 years referred to in subsection (1) shall be backdated by a period equal to the time (or, where section 66C(1) applies, the aggregate of the times) during which, by virtue of section 66A(2), any payment of rent falls to be taken into account."

Other rights of secure tenants

146 Right to have repairs carried out.

For section 60 of the 1987 Act there shall be substituted the following section—

"**60 Right to have repairs carried out.**

(1) The Secretary of State may make regulations for entitling a secure tenant of a landlord prescribed by the Secretary of State, subject to and in accordance with the regulations, to have qualifying repairs carried out to the house which is the subject of the secure tenancy.

(2) Those regulations shall prescribe—

(a) the maximum amount which will be paid in respect of any single qualifying repair;

(b) the maximum time within which a qualifying repair is to be completed.

(3) The regulations may also provide that—

(a) a landlord which has been prescribed under subsection (1) shall—

(i) maintain a list of contractors who are prepared to carry out qualifying repairs;

(ii) take such steps as may be prescribed to make its secure tenants aware of the provisions of the regulations and of the list of contractors;

(iii) where the tenant makes an application to him for a qualifying repair to be carried out, issue a works order to the usual contractor specifying the nature of the repair and the last day of the maximum time prescribed under subsection (2)(b);

(b) where the usual contractor has not started the repair work by the last day specified in the works order, the tenant shall have the right to instruct one of the other listed contractors to carry out the repair;

(c) where the repair work is carried out by that other listed contractor, the landlord shall be liable to pay for the work carried out;

(d) a listed contractor who is instructed by a tenant shall notify the landlord that he has been so instructed as soon as he receives the instruction;

(e) if the usual contractor fails to carry out the repair within the specified maximum time, the landlord shall pay to the tenant such sum by way of compensation as may be determined by or under the regulations;

(f) the landlord may set off against any compensation payable under the regulations any sums owed to it by the tenant.

(4) The regulations may—

(a) make different provision with respect to different cases or descriptions of case, including different provision for different areas;

(b) make such procedural, incidental, supplementary and transitional provision as appears to the Secretary of State necessary or expedient.

(5) Nothing in subsections (2) to (4) above shall be taken as prejudicing the generality of subsection (1).

(6) Regulations under this section shall be made by statutory instrument.

(7) In this section—

"listed contractor" means any contractor (including the usual contractor) specified in the landlord's list of contractors;

"qualifying repair" means a repair prescribed as such in the regulations;

"usual contractor" means the direct services organisation of the landlord or the contractor to whom the landlord has contracted its repairs."

147 Right to compensation for improvements.

After section 58 of the 1987 Act there shall be inserted the following section—

"**58A Right to compensation for improvements.**

(1) For the purposes of this section—

(a) "qualifying improvement work" is improvement work which is prescribed as such by the Secretary of State and which is begun not earlier than the commencement of section 147 of the Leasehold Reform, Housing and Urban Development Act 1993;

(b) "qualifying person" is a person who is, at the time the tenancy comes to an end, the tenant of a landlord named in sub-paragraphs (i) to (iv) of section 61(2)(a); and—

(i) is the tenant by whom the qualifying work was carried out; or

(ii) is a tenant of a joint tenancy which existed at the time the improvement work was carried out; or

(iii) succeeded to the tenancy under section 52 on the death of the tenant who carried out the work and the tenancy did not cease to be a secure tenancy on his succession;

(c) a tenancy is terminated when—

(i) any of the circumstances of subsection (1) of section 46 apply and, in a case where the termination is under paragraph (c) or (f) of that subsection, the house which is the subject of the secure tenancy is vacated;

(ii) there is a change of landlord;

(iii) it is assigned to a new tenant.

(2) Where the tenant of a landlord specified in sub-paragraphs (i) to (iv) of section 61(2)(a) has carried out qualifying improvement work with the consent of that landlord under section 57, the qualifying person or persons shall on the termination of the tenancy be entitled to be paid compensation by the landlord in respect of the improvement work.

(3) Compensation shall not be payable if—

(a) the improvement is not of a prescribed description; or

(b) the tenancy comes to an end in prescribed circumstances; or

(c) compensation has been paid under section 58 in respect of the improvement; or

(d) the amount of any compensation which would otherwise be payable is less than such amount as may be prescribed,

and for the purposes of this subsection a prescribed description may be framed by reference to any circumstances whatever.

(4) Regulations under this section may provide that—

(a) any compensation payable shall be—

(i) determined by the landlord in such manner and taking into account such matters as may be prescribed; or

(ii) calculated in such manner and taking into account such matters as may be prescribed,

and shall not exceed such amount, if any, as may be prescribed; and

(b) the landlord may set off against any compensation payable under this section any sums owed to it by the qualifying person or persons.

(5) Where, in the case of two or more qualifying persons, one of them ("the missing person") cannot be found—

(a) a claim for compensation under this section may be made by, and compensation may be paid to, the other qualifying person or persons; but

(b) the missing person shall be entitled to recover his share of any compensation so paid from that person or those persons.

(6) The Secretary of State may by regulations made under this section make such procedural, incidental, supplementary and transitional provisions as appear to him to be necessary or expedient, and may in particular—

(a) provide for the manner in which and the period within which claims for compensation under this section are to be made, and for the procedure to be followed in determining such claims;

(b) prescribe the form of any document required to be used for the purposes of or in connection with such claims; and

(c) provide for the determination of questions arising under the regulations.

(7) Regulations under this section—

(a) may make different provision with respect to different cases or descriptions of case, including different provision for different areas;

(b) shall be made by statutory instrument which (except in the case of regulations which are made only under subsection (6)(b)) shall be

subject to annulment in pursuance of a resolution of either House of Parliament."

148 Right to information.

After section 75 of the 1987 Act there shall be inserted the following section—

"**75A Duty of local authority landlord to provide information about right to buy.**

(1) A landlord which is one of those mentioned in section 61(2)(a)(i) or (ii) shall supply each of its secure tenants at least once every year with information about his right to purchase his house under this Part.

(2) The information supplied under subsection (1) shall be in such form as the landlord considers best suited to explain in simple terms and so far as it considers appropriate the right referred to in that subsection."

Housing welfare services

149 Provision of housing welfare services.

Part I of the 1987 Act shall have effect, and be deemed always to have had effect, as if after section 5 there were inserted the following section—

"**5A Power of local authority to provide welfare services.**

(1) A local authority may provide in connection with housing accommodation provided by them (whether or not under this Part) such welfare services, that is to say services for promoting the welfare of the persons for whom the accommodation is so provided, as accord with the needs of those persons.

(2) The local authority may make reasonable charges for welfare services provided by virtue of this section.

(3) Notwithstanding the provisions of section 203, a local authority may attribute the income from and the expenditure on the welfare services provided under subsection (1) to a revenue account other than their housing revenue account.

(4) In this section "welfare services" does not include the repair, maintenance, supervision or management of houses or other property.

(5) The powers conferred by this section shall not be regarded as restricting those conferred by section 83 of the Local Government (Scotland) Act 1973 (power to incur expenditure for purposes not otherwise authorised) and accordingly the reference in subsection (1) of that section to any other enactment shall not include a reference to this section."

150 Accounting for housing welfare services.

Schedule 15 to the 1987 Act (the housing revenue account) shall have effect, and be deemed always to have had effect, as if after paragraph 4 there were inserted the following paragraph—

"4A **Provision of welfare services**

Where in any year a local authority provide welfare services under section 5A, they may—

(a) carry to the credit of the housing revenue account an amount equal to the whole or any part of the income of the authority for the year from charges in respect of the provision of those services;

(b) carry to the debit of the account an amount equal to the whole or any part of the expenditure of the authority for the year in respect of the provision of those services."

151 Power to repeal provisions relating to housing welfare services.

After section 5A of the 1987 Act there shall be inserted the following section—

"**5B Power to repeal provisions relating to welfare services.**

(1) The Secretary of State may at any time by order made by statutory instrument provide that, on such day or in relation to such periods as may be appointed by the order, section 5A, this section and paragraph 4A of Schedule 15 shall—

(a) cease to have effect; or

(b) cease to apply for such purposes as may be specified in the order.

(2) An order under this section may—

(a) appoint different days or periods for different provisions or purposes or for different authorities or descriptions of authority; and

(b) contain such incidental, supplementary or transitional provisions as appear to the Secretary of State to be necessary or expedient."

Miscellaneous

152 Management agreements with housing co-operatives.

After section 22 of the 1987 Act there shall be inserted the following section—

"**22A Management agreements with housing co-operatives.**

(1) In this section "housing co-operative" has the meaning given in subsection (1) of section 22 except that the reference in that subsection to the Secretary of State's approval shall be construed as a reference to his approval in relation to the purposes of this section.

(2) On an application by a housing co-operative a local authority shall make an agreement with them for the performance by that housing co-operative, on such terms as may be provided in the agreement, of the local authority's functions under section 17(1) relating to the management of houses which are subject to the agreement.

(3) Before making such an agreement the local authority shall satisfy themselves that the housing co-operative—

(a) have the approval of the Secretary of State;
(b) are able to perform the functions competently and efficiently;
(c) are representative of the tenants of the houses.

(4) Where the local authority refuse to enter into an agreement on the grounds that the housing co-operative do not satisfy paragraph (b) or (c) of subsection (3), the housing co-operative may appeal to the Secretary of State who may confirm or reverse the decision of the local authority.

(5) Where the Secretary of State reverses the decision of the local authority, the authority and the housing co-operative shall make the agreement.

(6) Where the local authority and the housing co-operative are unable to agree on the terms of the agreement, the housing co-operative may appeal to the Secretary of State who may determine the terms of the agreement.

(7) An agreement to which this section applies shall be made only with the approval of the Secretary of State, which may be given either generally or to any local authority or description of local authority or in any particular case, and may be given unconditionally or subject to any conditions."

153 Standards and performance in housing management.

After section 17 of the 1987 Act there shall be inserted the following sections—

" Standards and performance in housing management

17A Publication of information.

(1) A local authority shall, in relation to their management of the houses which they hold for housing purposes, publish each year such information as—
(a) may be prescribed by the Secretary of State about—
(i) the standard of service of management which the authority undertake to provide;
(ii) the authority's performance in the past in the achievement of that standard;
(iii) the authority's intentions for the future in relation to the achievement of that standard;
(iv) any other matter which he thinks should be included in the information to be published;
(b) the authority consider it appropriate to publish in relation to the matters mentioned in paragraph (a) above, either as a result of having consulted tenants or otherwise;
(c) the authority consider it appropriate to publish in relation to any other matter, either as a result of consulting tenants or otherwise.

(2) Before publishing such information, a local authority shall consult their tenants as to the information to be published under subsection (1) and shall take account of the characteristics of the different parts of their districts or areas and of the difference in information which may be appropriate in relation to these parts.

(3) The Secretary of State may direct a local authority to consult tenants or groups of tenants representing less than the whole of their district or area.

17B Power of Secretary of State to direct local authority.

At the same time as the information is published, the local authority shall send a copy of the document in which it is published to the Secretary of State who may, if he considers that the publication is unsatisfactory, direct the local authority to publish the information in such manner as he specifies in the direction.

17C Management plan.

A local authority shall, if the Secretary of State gives them notice to do so, prepare and submit to him within 3 months after such notice, a plan for the management of the houses which they hold for housing purposes."

154 Further provision as to allocation of housing.

In section 20 of the 1987 Act (persons to have priority on housing list and allocation of housing) at the end there shall be added the following subsection—

"(3) A member of a local authority shall be excluded from a decision on the allocation of local authority housing, or of housing in respect of which the local authority may nominate the tenant, where—

(a) the house in question is situated; or

(b) the applicant for the house in question resides,

in the electoral division or ward for which that member is elected."

155 Rules relating to housing list.

(1) For subsection (1) of section 21 of the 1987 Act (publication of rules relating to the housing list) there shall be substituted the following subsection—

"(1) It shall be the duty—

(a) of every local authority to make and to publish in accordance with subsection (4), and again within 6 months of any alteration thereof, rules governing—

(i) the admission of applicants to any housing list;

(ii) the priority of allocation of houses;

(iii) the transfer of tenants from houses owned by the landlord to houses owned by other bodies;

(iv) exchanges of houses;

(b) of Scottish Homes and development corporations (including urban development corporations) to publish in accordance with subsection (4), and again within 6 months of any alteration thereof, any rules they may have governing the matters set out in sub-paragraphs (i) to (iv) of paragraph (a) above."

(2) [F104] . . . . . .

Textual Amendments

F104 S. 155(2) repealed (1.4.2002) by 2001 (asp 10), s. 112, Sch. 10 para. 20; S.S.I. 2002/168, **art. 2(2)**, Sch. (subject to transitional provisions in art. 3)

156 Defective dwellings: damages for landlord's failure to notify.

After subsection (3) of section 299 of the 1987 Act (jurisdiction of sheriff) there shall be added the following subsections—

"(4) Where damages are awarded in proceedings commenced before 1st December 1994 which arise out of a failure on the part of the public sector authority to give a person acquiring a relevant interest in a dwelling notice in writing under section 291, the amount of damages for the purposes of this subsection shall be equal to the difference between—

(a) the market value of the dwelling assessed as if it were not a defective dwelling and were available for sale on the open market with vacant possession; and

(b) the market value of the dwelling assessed as a defective dwelling and as if available for sale on the open market with vacant possession.

(5) Subsection (4) applies in relation to proceedings which arise out of a failure by the authority before the coming into force of section 156 of the Leasehold Reform, Housing and Urban Development Act 1993 as it does to proceedings which arise out of a failure by the authority after that date."

157 Other amendments of 1987 Act.

(1) In section 17 of the 1987 Act (management of local authority houses), in subsection (1), the words "and exercised by" shall cease to have effect.

(2) In section 61 of that Act (secure tenant's right to purchase), in subsection (10), subparagraphs (i) and (ii) of paragraph (b) shall cease to have effect.

(3) In section 62 of that Act (price)—

(a) in subsection (3)(b), the words "continuous" and "immediately" shall cease to have effect;

(b) after subsection (3) there shall be inserted—

"(3A) There shall be deducted from the discount an amount equal to any previous discount, or the aggregate of any previous discounts, received by the appropriate person on any previous purchase of a house by any of these persons from a landlord who is a person specified in subsection (11) of section 61 or prescribed in an order made under that subsection, reduced by any amount of such previous discount recovered by such a landlord.";

(c) in subsection (4)—

(i) for paragraph (a) there shall be substituted—

"(a) the "appropriate person" is whoever of—

(i) the tenant; or

(ii) the tenant's spouse if living with him at the date of service of the application to purchase; or

(iii) a deceased spouse if living with the tenant at the time of death; or

(iv) any joint tenant who is a joint purchaser of the house,

has the longer or longest such occupation; " and

(ii) at the end there shall be inserted— " and, for the purposes of subsection (3A), the "appropriate person" is any of the persons mentioned in sub-paragraphs (i) to (iv) of paragraph (a). "

(4) In section 248 of that Act (repairs grants), the proviso to subsection (5) shall be amended as follows—

(a) after the words "shall not apply" there shall be inserted " (a) "; and

(b) at the end there shall be added—

"(b) in relation to an application for a repairs grant in respect of works intended to reduce exposure to radon gas."

PART III

DEVELOPMENT OF URBAN AND OTHER AREAS

The Urban Regeneration Agency

158 The Agency.

(1) There shall be a body corporate to be known as the Urban Regeneration Agency ("the Agency") for the purpose of exercising the functions conferred on it by the following provisions of this Part.

(2) Schedule 17 to this Act shall have effect with respect to the constitution of the Agency and Schedule 18 to this Act shall have effect with respect to the finances of the Agency.

(3) It is hereby declared that, except as provided by section 175, the Agency is not to be regarded as the servant or agent of the Crown or as enjoying any status, immunity or privilege of the Crown and that its property is not to be regarded as the property of, or property held on behalf of, the Crown.

Extent Information

E1 S. 158: by s. 188(6)(b) it is provided that, in Pt. III of this Act, Sch. 17 para. 8 also extends to S. and N.I., and subject thereto s. 188(4)(c) provides that Pt. III of this Act extends to E.W. only.

159 Objects of Agency.

(1) The main object of the Agency shall be to secure the regeneration of land in England—

(a) which is land of one or more of the descriptions mentioned in subsection (2); and

(b) which the Agency (having regard to guidance, and acting in accordance with directions, given by the Secretary of State under section 167) determines to be suitable for regeneration under this Part.

(2) The descriptions of land referred to in subsection (1)(a) are—

(a) land which is vacant or unused;

(b) land which is situated in an urban area and which is under-used or ineffectively used;

(c) land which is contaminated, derelict, neglected or unsightly; and

(d) land which is likely to become derelict, neglected or unsightly by reason of actual or apprehended collapse of the surface as the result of the carrying out of relevant operations which have ceased to be carried out;

and in this subsection "relevant operations" has the same meaning as in section1 of the [M87]Derelict Land Act 1982.

(3) The Agency shall also have the object of securing the development of land in England which the Agency—

(a) having regard to guidance given by the Secretary of State under section 167;

(b) acting in accordance with directions given by the Secretary of State under that section; and

(c) with the consent of the Secretary of State,

determines to be suitable for development under this Part.

(4) The objects of the Agency are to be achieved in particular by the following means (or by such of them as seem to the Agency to be appropriate in any particular case), namely—

(a) by securing that land and buildings are brought into effective use;

(b) by developing, or encouraging the development of, existing and new industry and commerce;

(c) by creating an attractive and safe environment;

(d) by facilitating the provision of housing and providing, or facilitating the provision of, social and recreational facilities.

Marginal Citations

M87 1982 c. 42.

160 General powers of Agency.

(1) Subject to the following provisions of this Part, for the purpose of achieving its objects the Agency may—

(a) acquire, hold, manage, reclaim, improve and dispose of land, plant, machinery, equipment and other property;

(b) carry out the development or redevelopment of land, including the conversion or demolition of existing buildings;

(c) carry out building and other operations;

(d) provide means of access, services or other facilities for land;

(e) seek to ensure the provision of water, electricity, gas, sewerage and other services;

(f) carry on any business or undertaking for the purposes of its objects;

(g) with the consent of the Secretary of State, form, or acquire interests in, bodies corporate;

(h) act with other persons, whether in partnership or otherwise;

(i) give financial assistance to other persons;

(j) act as agent for other persons;

(k) provide advisory or other services and facilities; and

(l) generally do anything necessary or expedient for the purposes of its objects or for purposes incidental to those purposes.

(2) Nothing in section 159 or this section shall empower the Agency—

(a) to provide housing otherwise than by acquiring existing housing accommodation and making it available on a temporary basis for purposes incidental to the purposes of its objects;

(b) to acquire an interest in a body corporate which at the time of the acquisition is carrying on a trade or business, if the effect of the acquisition would be to make the body corporate a subsidiary of the Agency; or

(c) except with the consent of the Secretary of State, to dispose of any land otherwise than for the best consideration which can reasonably be obtained.

(3) For the avoidance of doubt it is hereby declared that subsection (1) relates only to the capacity of the Agency as a statutory corporation and nothing in section 159 or this section authorises it to disregard any enactment or rule of law.

(4) In this section—

"improve", in relation to land, includes refurbish, equip and fit out;

"subsidiary" has the meaning given by section736 of the [M88]Companies Act 1985;

and in this section and the following provisions of this Part references to land include land not falling within subsection (1) or (3) of section 159.

Modifications etc. (not altering text)

C5 S. 160(1) extended (31.3.1998) by S.I. 1998/569, **art. 4**.

C6 S. 160(2)(b) excluded (31.3.1998) by S.I. 1998/569, **art. 4**.

Marginal Citations

M88 1985 c. 6.

161 Vesting of land by order.

(1) Subject to subsections (2) and (3), the Secretary of State may by order provide that land specified in the order which is vested in a local authority, statutory undertakers or other public body, or in a wholly-owned subsidiary of a public body, shall vest in the Agency.

(2) An order under subsection (1) may not specify land vested in statutory undertakers which is used for the purpose of carrying on their statutory undertakings or which is held for that purpose.

(3) In the case of land vested in statutory undertakers, the power to make an order under subsection (1) shall be exercisable by the Secretary of State and the appropriate Minister.

(4) An order under subsection (1) shall have the same effect as a declaration under the [M89]Compulsory Purchase (Vesting Declarations) Act 1981 except that, in relation to such an order, the enactments mentioned in Schedule 19 to this Act shall have effect with the modifications specified in that Schedule.

(5) Compensation under the [M90]Land Compensation Act 1961, as applied by subsection (4) and Schedule 19 to this Act, shall be assessed by reference to values current on the date the order under subsection (1) comes into force.

(6) No compensation is payable, by virtue of an order under subsection (1), under Part IV of the Land Compensation Act 1961.

[[F105](6A) No order shall be made under subsection (1) in relation to a universal service provider (within the meaning of the Postal Services Act 2000).**]**

(7) In this section—

"the appropriate Minister"—

(a) in relation to statutory undertakers who are or are deemed to be statutory undertakers for the purposes of any provision of Part XI of the [M91]Town and Country Planning Act 1990, shall be construed as if contained in that Part;

(b) in relation to any other statutory undertakers, shall be construed in accordance with an order made by the Secretary of State;

[[F106](ba) a person who holds a licence under Chapter I of Part I of the Transport Act 2000 (air traffic services) to the extent that the person is carrying out activities authorised by the licence;**]**

and the reference to the Secretary of State and the appropriate Minister shall be similarly construed;

"local authority" means a county council, **[**[F107]a county borough council,**]** a district council, a London borough council or the Common Council of the City of London;

"statutory undertakers", except where the context otherwise requires, means—

(a) persons authorised by any enactment to carry on any railway, light railway, tramway, road transport, water transport, canal, inland navigation, dock, harbour, pier or lighthouse undertaking, or any undertaking for the supply of hydraulic power;

(b) British Shipbuilders **[**[F108]and**]**, the Civil Aviation Authority, the British Coal Corporation [F109]. . .;

(c) any other authority, body or undertakers specified in an order made by the Secretary of State;

(d) any wholly-owned subsidiary of any person, authority or body mentioned in paragraphs (a) and (b) or of any authority, body or undertakers specified in an order made under paragraph (c);

and "statutory undertaking" shall be construed accordingly;

"wholly-owned subsidiary" has the meaning given by section 736 of the [M92]Companies Act 1985.

(8) If any question arises as to which Minister is the appropriate Minister in relation to any statutory undertakers, that question shall be determined by the Treasury.

(9) An order under subsection (1) shall be made by statutory instrument but no such order shall be made unless a draft of the order has been laid before and approved by resolution of each House of Parliament.

(10) An order under subsection (7) shall be made by statutory instrument which shall be subject to annulment in pursuance of a resolution of either House of Parliament.

Textual Amendments

F105 S. 161(6A) inserted (26.3.2001) by S.I. 2001/1149, art. 3(1), **Sch. 1 para. 98(2)**

F106 S. 161(7)(ba) inserted (1.4.2001) by 2000 c. 38, ss. 37, 275(1), **Sch. 5 para. 17** (with s. 106); S.I. 2001/869, **art. 2**

F107 Words in s. 161(7) inserted (1.4.1996) by 1994 c. 19, s. 66(6), **Sch. 16 para. 104** (with s. 54(7), Sch. 17 paras. 22(1), 23(2)); S.I. 1996/396, art. 4, **Sch. 2**

F108 S. 161(7): Word in para. (b) of the definition of "statutory undertakers" inserted (26.3.2001) by S.I. 2001/1149, art. 3(1), **Sch. 1 para. 98(3)**

F109 S. 161(7): Words in para. (b) of the definition of "statutory undertakers" repealed (26.3.2001) by S.I. 2001/1149, art. 3(2), **Sch. 2** (with art. 4(11))

Marginal Citations

M89 1981 c. 66.

M90 1961 c. 33.

M91 1990 c. 8.

M92 1985 c. 6.

162 Acquisition of land.

(1) The Agency may, for the purpose of achieving its objects or for purposes incidental to that purpose, acquire land by agreement or, on being authorised to do so by the Secretary of State, compulsorily.

(2) The Agency may, for those purposes, be authorised by the Secretary of State, by means of a compulsory purchase order, to acquire compulsorily such new rights over land as are specified in the order.

(3) Where the land referred to in subsection (1) or (2) forms part of a common, open space or fuel or field garden allotment, the Agency may acquire (by agreement or, on being authorised to do so by the Secretary of State, compulsorily) land for giving in exchange for the land or, as the case may be, rights acquired.

(4) Subject to section 169, the [M93]Acquisition of Land Act 1981 shall apply to the compulsory acquisition of land by virtue of subsection (1) or (3).

(5) Schedule 3 to that Act shall apply to the compulsory acquisition of a right by virtue of subsection (2) but with the modification that the reference in paragraph 4(3) to statutory undertakers includes a reference to the Agency.

(6) The provisions of Part I of the [M94]Compulsory Purchase Act 1965 (so far as applicable), other than section 31, shall apply to the acquisition by the Agency of land by

agreement; and in that Part as so applied "land" has the meaning given by the [M95]Interpretation Act 1978.

(7) In subsection (2)—

"new rights over land" means rights over land which are not in existence when the order specifying them is made;

"compulsory purchase order" has the same meaning as in the [M96]Acquisition of Land Act 1981.

Marginal Citations

M93 1981 c. 67.
M94 1965 c. 56.
M95 1978 c. 30.
M96 1981 c. 67.

163 Power to enter and survey land.

(1) Any person who is duly authorised in writing by the Agency may at any reasonable time enter any land for the purpose of surveying it, or estimating its value, in connection with—

(a) any proposal to acquire that land or any other land; or

(b) any claim for compensation in respect of any such acquisition.

(2) The power to survey land shall be construed as including power to search and bore for the purpose of ascertaining the nature of the subsoil or the presence of minerals in it.

(3) A person authorised under this section to enter any land—

(a) shall, if so required, produce evidence of his authority before entry, and

(b) shall not demand admission as of right to any land which is occupied unless 28 days' notice of the intended entry has been given to the occupier by the Agency.

(4) Any person who wilfully obstructs a person acting in exercise of his powers under this section shall be guilty of an offence and liable on summary conviction to a fine not exceeding level 2 on the standard scale.

(5) If any person who, in compliance with the provisions of this section, is admitted into a factory, workshop or workplace discloses to any person any information obtained by him in it as to any manufacturing process or trade secret, he shall be guilty of an offence.

(6) Subsection (5) does not apply if the disclosure is made by a person in the course of performing his duty in connection with the purpose for which he was authorised to enter the premises.

(7) A person who is guilty of an offence under subsection (5) shall be liable on summary conviction to a fine not exceeding the statutory maximum or on conviction on indictment to imprisonment for a term not exceeding two years or a fine or both.

(8) Where any land is damaged—

(a) in the exercise of a right of entry under this section, or

(b) in the making of any survey under this section,

compensation in respect of that damage may be recovered by any person interested in the land from the Agency.

(9) The provisions of section 118 of the [M97]Town and Country Planning Act 1990 (determination of claims for compensation) shall apply in relation to compensation under subsection (8) as they apply in relation to compensation under Part IV of that Act.

(10) No person shall carry out under this section any works authorised by virtue of subsection (2) unless notice of his intention to do so was included in the notice required by subsection (3).

(11) The authority of the appropriate Minister shall be required for the carrying out of any such works if—

(a) the land in question is held by statutory undertakers; and

(b) they object to the proposed works on the ground that the execution of the works would be seriously detrimental to the carrying on of their undertaking;

and expressions used in this subsection have the same meanings as they have in section 325(9) of the [M98]Town and Country Planning Act 1990 (supplementary provisions as to rights of entry).

Marginal Citations

M97 1990 c. 8.

M98 1990 c. 8.

164 Financial assistance.

(1) The consent of the Secretary of State is required for the exercise of the Agency's power to give financial assistance; and such assistance—

(a) may be given by the Agency only in respect of qualifying expenditure; and

(b) may be so given on such terms and conditions as the Agency, with the consent of the Secretary of State, considers appropriate.

(2) Expenditure incurred in connection with any of the following matters is qualifying expenditure—

(a) the acquisition of land;

(b) the reclamation, improvement or refurbishment of land;

(c) the development or redevelopment of land, including the conversion or demolition of existing buildings;

(d) the equipment or fitting out of land;

(e) the provision of means of access, services or other facilities for land;

(f) environmental improvements.

(3) Financial assistance may be given in any form and may, in particular, be given by way of—

(a) grants;

(b) loans;

(c) guarantees; or

(d) incurring expenditure for the benefit of the person assisted;

but the Agency shall not in giving financial assistance purchase loan or share capital in a company.

(4) A consent under subsection (1) may be given only with the approval of the Treasury.

(5) The terms and conditions on which financial assistance is given may, in particular, include provision as to—

(a) the circumstances in which the assistance must be repaid, or otherwise made good, to the Agency, and the manner in which that is to be done;

(b) the circumstances in which the Agency is entitled to recover the proceeds or part of the proceeds of any disposal of land in respect of which the assistance was provided.

(6) Any person receiving financial assistance shall comply with the terms and conditions on which it is given and compliance may be enforced by the Agency.

165 Connection of private streets to highway.

(1) For the purpose of achieving its objects or for purposes incidental to that purpose, the Agency may serve a notice (a "connection notice") on the local highway authority requiring the authority to connect a private street to an existing highway (whether or not it is a highway which for the purposes of the [M99]Highways Act 1980 is a highway maintainable at the public expense).

(2) A connection notice must specify—

(a) the private street and the existing highway;

(b) the works which appear to the Agency to be necessary to make the connection; and

(c) the period within which those works should be carried out.

(3) Before serving a connection notice the Agency shall consult the local highway authority about the proposed contents of the notice.

(4) Within the period of two months beginning with the date on which the connection notice was served, the local highway authority may appeal against the notice to the Secretary of State.

(5) After considering any representations made to him by the Agency and the local highway authority, the Secretary of State shall determine an appeal under subsection (4) by setting aside or confirming the connection notice (with or without modifications).

(6) A connection notice becomes effective—

(a) where no appeal is made within the period of two months referred to in subsection (4), upon the expiry of that period;

(b) where an appeal is made within that period but is withdrawn before it has been determined by the Secretary of State, on the date following the expiry of the period of 21 days beginning with the date on which the Secretary of State is notified of the withdrawal;

(c) where an appeal is made and the connection notice is confirmed by a determination under subsection (5), on such date as the Secretary of State may specify in the determination.

(7) Where a connection notice becomes effective, the local highway authority shall carry out the works specified in the notice within such period as may be so specified and may recover from the Agency the expenses reasonably incurred by them in doing so.

(8) If the local highway authority do not carry out the works specified in the notice within such period as may be so specified, the Agency may itself carry out or complete those works or arrange for another person to do so.

(9) In this section "local highway authority" has the same meaning as in the Highways Act 1980.

Marginal Citations
M99 1980 c. 66.

The Agency: supplemental

166 Consents of Secretary of State.

A consent of the Secretary of State under the foregoing provisions of this Part—

(a) may be given unconditionally or subject to conditions;

(b) may be given in relation to a particular case or in relation to such descriptions of case as may be specified in the consent; and

(c) except in relation to anything already done or agreed to be done on the authority of the consent, may be varied or revoked by a notice given by the Secretary of State to the Agency.

167 Guidance and directions by Secretary of State.

(1) The Agency shall have regard to guidance from time to time given by the Secretary of State in deciding—

(a) which land is suitable for regeneration or development under this Part; and

(b) which of its functions under this Part it is to exercise for securing the regeneration or development of any particular land and how it is to exercise those functions.

(2) Without prejudice to any of the foregoing provisions of this Part requiring the consent of the Secretary of State to be obtained for anything to be done by the Agency, he may give directions to the Agency—

(a) for restricting the exercise by it of any of its functions [F110]. . .; or

(b) for requiring it to exercise those functions in any manner specified in the directions.

(3) Directions under subsection (2) may be of a general or particular nature and may be varied or revoked by subsequent directions.

Textual Amendments
F110 Words in s. 167(2)(a) omitted (20.2.1999) by S.I. 1999/416, **art.9**

168 Validity of transactions.

(1) A transaction between a person and the Agency shall not be invalidated by reason only of any failure by the Agency to observe its objects or the requirement in subsection (1) of section 160 that the Agency shall exercise the powers conferred by that subsection for the purpose of achieving its objects, and such a person shall not be concerned to see or enquire whether there has been any such failure.

(2) A transaction between a person and the Agency acting in purported exercise of its functions under this Part shall not be invalidated by reason only that it was carried out in contravention of any direction given under subsection (2) of section 167, and such a person shall not be concerned to see or enquire whether any directions under that subsection have been given or complied with.

169 Supplementary provisions as to vesting and acquisition of land.

(1) Schedule 20 to this Act shall have effect.

(2) Part I of that Schedule modifies the [M100]Acquisition of Land Act 1981 as applied by section 162.

(3) Part II of that Schedule contains supplementary provisions about land vested in or acquired by the Agency under this Part.

(4) Part III of that Schedule contains supplementary provisions about the acquisition by the Agency of rights over land by virtue of section 162(2).

Marginal Citations
M100 1981 c. 67.

Designation orders and their effect

170 Power to make designation orders.

(1) Where, as respects any area in England which is an urban area or which, in the opinion of the Secretary of State, is suitable for urban development, it appears to the Secretary of State—

(a) that all or any of the provisions authorised by section 171 should be made in relation to the whole or any part of it; or

(b) that either or both of sections 172 and 173 should apply in relation to it,

the Secretary of State may by order designate that area and either so make the provision or provisions, or direct that the section or sections shall so apply, or (as the case may require) do both of those things.

(2) In this Part "designation order" means an order under this section and "designated area" means, subject to subsection (5), an area designated by a designation order.

(3) Before making a designation order the Secretary of State shall consult every local authority any part of whose area is intended to be included in the proposed designated area.

(4) A designation order—

(a) shall be made by statutory instrument which shall be subject to annulment in pursuance of a resolution of either House of Parliament; and

(b) may contain such savings and transitional and supplementary provisions as may be specified in the order.

(5) The power to amend a designation order conferred by section 14 of the [M101]Interpretation Act 1978 includes power to amend the boundaries of the designated area; and where any such amendment is made, any reference in this Part to a designated area is a reference to the designated area as so amended.

(6) In this section "local authority" means a county council, a district council, a London borough council or the Common Council of the City of London.

Marginal Citations
M101 1978 c. 30.

171 Agency as local planning authority.

(1) If a designation order so provides, the Agency shall be the local planning authority for the whole or any part of the designated area—

(a) for such purposes of PartIII of the [M102]Town and Country Planning Act 1990 and sections 67 and 73 of the [M103]Planning (Listed Buildings and Conservation Areas) Act 1990 as may be specified in the order; and

(b) in relation to such kinds of development as may be so specified.

(2) A designation order making such provision as is mentioned in subsection (1) may also provide—

(a) that any enactment relating to local planning authorities shall not apply to the Agency; and

(b) that any such enactment which applies to the Agency shall apply to it subject to such modifications as may be specified in the order.

(3) If a designation order so provides—

(a) subject to any modifications specified in the order, the Agency shall have, in the whole or any part of the designated area, such of the functions conferred by the provisions mentioned in subsection (4) as may be so specified; and

(b) such of the provisions of Part VI and sections 249 to 251 and 258 of theTown and Country Planning Act 1990 and sections 32 to 37 of thePlanning (Listed Buildings and Conservation Areas) Act 1990 as are mentioned in the order shall have effect, in relation to the Agency and to land in the designated area, subject to the modifications there specified.

(4) The provisions referred to in subsection (3)(a) are—

(a) sections 171C, 171D, 172 to 185, 187 to 202, 206 to 222, 224, 225, 231 and 320 to 336 of, and paragraph 11 of Schedule 9 to, the [M104]Town and Country Planning Act 1990;

(b) Chapters I, II and IV of Part I and sections 54 to 56, 59 to 61, 66, 68 to 72, 74 to 76 and 88 of the [M105]Planning (Listed Buildings and Conservation Areas) Act 1990; and

(c) sections 4 to 15, 17 to 21, 23 to 26AA, 36 and 36A of the [M106]Planning (Hazardous Substances) Act 1990.

(5) A designation order making such provision as is mentioned in subsection (3) may also provide that, for the purposes of any of the provisions specified in the order, any enactment relating to local planning authorities shall apply to the Agency subject to such modifications as may be so specified.

Marginal Citations
M102 1990 c. 8.
M103 1990 c. 9.
M104 1990 c. 8.
M105 1990 c. 9.
M106 1990 c. 10.

172 Adoption of private streets.

(1) Where—

(a) this section applies in relation to a designated area; and

(b) any street works have been executed on any land in the designated area which was then or has since become a private street (or part of a private street),

the Agency may serve a notice (an "adoption notice") on the street works authority requiring the authority to declare the street (or part) to be a highway which for the purposes of the [M107]Highways Act 1980 is a highway maintainable at the public expense.

(2) Within the period of two months beginning with the date on which the adoption notice was served, the street works authority may appeal against the notice to the Secretary of State.

(3) After considering any representations made to him by the Agency and the street works authority, the Secretary of State shall determine an appeal under subsection (2) by setting aside or confirming the adoption notice (with or without modifications).

(4) Where, under subsection (3), the Secretary of State confirms the adoption notice—

(a) he may at the same time impose conditions (including financial conditions) upon the Agency with which it must comply in order for the notice to take effect; and

(b) with effect from such date as the Secretary of State may specify, the street (or part) shall become a highway which for the purposes of the Highways Act 1980 is a highway maintainable at the public expense.

(5) Where a street works authority neither complies with the adoption notice, nor appeals under subsection (2), the street (or part) shall become, upon the expiry of the period of two months referred to in subsection (2), a highway which for the purposes of the Highways Act 1980 is a highway maintainable at the public expense.

(6) In this section "street works" and "street works authority" have the same meanings as in Part XI of the [M108]Highways Act 1980.

Marginal Citations
M107 1980 c. 66.

M108 1980 c. 66.

173 Traffic regulation orders for private streets.

(1) Where—

(a) this section applies in relation to a designated area;

(b) the Agency submits to the Secretary of State that an order under this section should be made in relation to any road in the designated area which is a private street; and

(c) it appears to the Secretary of State that the traffic authority do not intend to make an order under section 1 or, as the case may be, section 6 of the [M109]Road Traffic Regulation Act 1984 (orders concerning traffic regulation) in relation to the road,

the Secretary of State may by order under this section make in relation to the road any such provision as he might have made by order under that section if he had been the traffic authority.

(2) The Road Traffic Regulation Act 1984 applies to an order under this section as it applies to an order made by the Secretary of State under section 1 or, as the case may be, section 6 of that Act in relation to a road for which he is the traffic authority.

(3) In this section "road" and "traffic authority" have the same meanings as in the Road Traffic Regulation Act 1984.

Marginal Citations
M109 1984 c. 27.

Other functions of Secretary of State

[F111]174 .....

Textual Amendments
F111 S. 174 repealed (24.9.1996) by 1996 c. 53, ss. 147, 150(2), **Sch. 3 Pt.III**

175 Power to appoint Agency as agent.

(1) The Secretary of State may, on such terms as he may with the approval of the Treasury specify, appoint the Agency to act as his agent in connection with such of the functions mentioned in subsection (2) as he may specify; and where such an appointment is made, the Agency shall act as such an agent in accordance with the terms of its appointment.

(2) The functions referred to in subsection (1) are—

(a) functions under section 1 of the [M110]Derelict Land Act 1982 or any enactment superseded by that section (grants for reclaiming or improving land or bringing land into use), other than the powers to make orders under subsections (5) and (7) of that section; and

(b) so far as exercisable in relation to England, functions under **[**F112sections 126 to 128 of the M111Housing Grants, Construction and Regeneration Act 1996 (financial assistance for regeneration and development)**]**

(3) In so far as an appointment under subsection (1) relates to functions mentioned in subsection (2)(b), the terms of the appointment shall preclude the Agency from giving financial assistance in respect of expenditure which is not qualifying expenditure within the meaning of section 164.

Textual Amendments

F112 Words in s. 175(2)(b) substituted (24.9.1996) by 1996 c. 53, **ss.129**, 150(2)

Marginal Citations

M110 1982 c. 42.

M111 1996 c. 53.

176 Power to direct disposal of unused etc. land held by public bodies.

(1) In subsection (1) of section 98 (disposal of land by public bodies at direction of Secretary of State) of the M112Local Government, Planning and Land Act 1980 ("the 1980 Act")—

(a) in paragraph (a), for the words "is for the time being entered on a register maintained by him under section 95 above" there shall be substituted the words " for the time being satisfies the conditions specified in section 95(2) above "; and

(b) in paragraph (b), for the words "is for the time being entered on such a register" there shall be substituted the words " for the time being satisfies those conditions ".

(2) In section 99A of that Act (powers of entry), subsection (2) (which precludes entry on land which is not for the time being entered on a register maintained under section 95) shall cease to have effect.

Marginal Citations

M112 1980 c. 65.

Urban development corporations

177 Power to act as agents of Agency.

(1) The Agency may, with the consent of the Secretary of State, appoint an urban development corporation, on such terms as may be agreed, to act as its agent in connection with such of its functions (other than its power to give financial assistance) as may be specified in the appointment; and where such an appointment is made, the urban development corporation shall act as such an agent in accordance with the terms of its appointment.

(2) For the purpose of assisting the Agency to carry out any of its functions, an urban development corporation, on being so requested by the Agency, may arrange for any

of its property or staff to be made available to the Agency for such period and on such other terms as it thinks fit.

(3) In this section "urban development corporation" means a corporation established by an order under section 135 of the 1980 Act.

178 Powers with respect to private streets.

For section 157 of the 1980 Act (highways) there shall be substituted the following sections—

" Private streets

157 Adoption of private streets.

(1) Where any street works have been executed on any land in an urban development area which was then or has since become a private street (or part of a private street), the urban development corporation may serve a notice (an "adoption notice") on the street works authority requiring the authority to declare the street (or part) to be a highway which for the purposes of the Highways Act 1980 is a highway maintainable at the public expense.

(2) Within the period of two months beginning with the date on which the adoption notice was served, the street works authority may appeal against the notice to the Secretary of State.

(3) After considering any representations made to him by the corporation and the street works authority, the Secretary of State shall determine an appeal under subsection (2) above by setting aside or confirming the adoption notice (with or without modifications).

(4) Where, under subsection (3) above, the Secretary of State confirms the adoption notice—

(a) he may at the same time impose conditions (including financial conditions) upon the corporation with which it must comply in order for the notice to take effect; and

(b) with effect from such date as the Secretary of State may specify, the street (or part) shall become a highway which for the purposes of the Highways Act 1980 is a highway maintainable at the public expense.

(5) Where a street works authority neither complies with the adoption notice, nor appeals under subsection (2) above, the street (or part) shall become, upon the expiry of the period of two months referred to in subsection (2) above, a highway which for the purposes of the Highways Act 1980 is a highway maintainable at the public expense.

(6) In this section—

"highway" has the same meaning as in the Highways Act 1980;

"private street", "street works" and "street works authority" have the same meanings as in Part XI of that Act.

(7) This section does not extend to Scotland.

157A Connection of private streets to highway.

(1) An urban development corporation may serve a notice (a "connection notice") on the local highway authority requiring the authority to connect a private street in the urban development area to an existing highway (whether or not it is a highway which for the purposes of the Highways Act 1980 is a highway maintainable at the public expense).

(2) A connection notice must specify—

(a) the private street and the existing highway;

(b) the works which appear to the corporation to be necessary to make the connection; and

(c) the period within which those works should be carried out.

(3) Before serving a connection notice an urban development corporation shall consult the local highway authority about the proposed contents of the notice.

(4) Within the period of two months beginning with the date on which the connection notice was served, the local highway authority may appeal against the notice to the Secretary of State.

(5) After considering any representations made to him by the corporation and the local highway authority, the Secretary of State shall determine an appeal under subsection (4) above by setting aside or confirming the connection notice (with or without modifications).

(6) A connection notice becomes effective—

(a) where no appeal is made within the period of two months referred to in subsection (4) above, upon the expiry of that period;

(b) where an appeal is made within that period but is withdrawn before it has been determined by the Secretary of State, on the date following the expiry of the period of 21 days beginning with the date on which the Secretary of State is notified of the withdrawal;

(c) where an appeal is made and the connection notice is confirmed by a determination under subsection (5) above, on such date as the Secretary of State may specify in the determination.

(7) Where a connection notice becomes effective, the local highway authority shall carry out the works specified in the notice within such period as may be so specified and may recover from the corporation the expenses reasonably incurred by them in doing so.

(8) If the local highway authority do not carry out the works specified in the notice within such period as may be so specified, the corporation may themselves carry out or complete those works or arrange for another person to do so.

(9) In this section—

"highway" and "local highway authority" have the same meanings as in the Highways Act 1980;

"private street" has the same meaning as in Part XI of that Act.

(10) This section does not extend to Scotland.

157B Traffic regulation orders for private streets.

(1) Where—

(a) an urban development corporation submits to the Secretary of State that an order under this section should be made in relation to any road in the urban development area which is a private street; and

(b) it appears to the Secretary of State that the traffic authority do not intend to make an order under section 1 or, as the case may be, section 6 of the Road Traffic Regulation Act 1984 (orders concerning traffic regulation) in relation to the road,

the Secretary of State may by order under this section make in relation to the road any such provision as he might have made by order under that section if he had been the traffic authority.

(2) The Road Traffic Regulation Act 1984 applies to an order under this section as it applies to an order made by the Secretary of State under section 1 or, as the case may be, section 6 of that Act in relation to a road for which he is the traffic authority.

(3) In this section—

"private street" has the same meaning as in Part XI of the Highways Act 1980;

"road" and "traffic authority" have the same meanings as in the Road Traffic Regulation Act 1984.

(4) This section does not extend to Scotland."

Commencement Information

I33 S. 178 wholly in force at 11.10.1993 (subject to the transitional provisions and savings in Sch. 1 to 1993/2134) see s. 188(2) and S.I. 1993/2134, **art. 4(b)**

179 Adjustment of areas.

(1) After subsection (3) of section 134 (urban development areas) of the 1980 Act there shall be inserted the following subsections—

"(3A) The Secretary of State may by order alter the boundaries of any urban development area so as to exclude any area of land.

(3B) Before making an order under subsection (3A) above, the Secretary of State shall consult any local authority the whole or any part of whose area is included in the area of land to be excluded by the order."

(2) In subsection (4) of that section, for the words "this section" there shall be substituted the words " subsection (1) above ".

(3) After that subsection there shall be inserted the following subsection—

"(5) The power to make an order under subsection (3A) above—

(a) shall be exercisable by statutory instrument subject to annulment in pursuance of a resolution of either House of Parliament; and

(b) shall include power to make such incidental, consequential, transitional or supplementary provision as the Secretary of State thinks fit."

(4) In section 135(2) of that Act (establishment of urban development corporations), for the words "section 134" there shall be substituted the words " section 134(1) ".

(5) In section 171 of that Act (interpretation of Part XVI: general), for the definition of "urban development area" there shall be substituted the following definition—

""urban development area" means so much of an area designated by an order under subsection (1) of section 134 above as is not excluded from it by an order under subsection (3A) of that section;".

180 Transfers of property, rights and liabilities.

(1) In subsection (1) of section 165 of the 1980 Act (power to transfer undertaking of urban development corporation), after the words "local authority", in both places where they occur, there shall be inserted the words " or other body ".

(2) Subsection (3) of that section (transfer of liabilities by order) shall cease to have effect; and after that section there shall be inserted the following section—

"**165A Transfer of property, rights and liabilities by order.**

(1) Subject to this section, the Secretary of State may at any time by order transfer to himself, upon such terms as he thinks fit, any property, rights or liabilities which—

(a) are for the time being vested in an urban development corporation, and

(b) are not proposed to be transferred under an agreement made under section 165 above and approved by the Secretary of State with the Treasury's concurrence.

(2) An order under this section may terminate—

(a) any appointment of the corporation under subsection (1) of section 177 of the Leasehold Reform, Housing and Urban Development Act 1993 (power of corporations to act as agents of the Urban Regeneration Agency); and

(b) any arrangements made by the corporation under subsection (2) of that section.

(3) Before making an order under this section, the Secretary of State shall consult each local authority in whose area all or part of the urban development area is situated.

(4) An order under this section shall be made by statutory instrument which shall be subject to annulment in pursuance of a resolution of either House of Parliament."

(3) In subsection (9) of that section—

(a) after the words "this section" there shall be inserted the words " and sections 165A and 166 below ";

(b) for the words "the section", in both places where they occur, there shall be substituted the words " the sections ".

(4) For subsection (1) of section 166 of that Act (dissolution of urban development corporations) there shall be substituted the following subsection—

"(1) Where all property, rights and liabilities of an urban development corporation have been transferred under or by one or more relevant instruments, the Secretary of State may make an order by statutory instrument under this section."

(5) For subsection (5) of that section there shall be substituted the following subsection—

"(5) In this section "relevant instrument" means an agreement made under section 165 above or an order made under section 165A above."

Commencement Information

I34 S. 180 wholly in force; s. 180 not in force at Royal Assent see s. 188(2); s. 180 in force for certain purposes at 11.10.1993 by S.I. 1993/2134, **art. 4**; s. 180 in force at 10.11.1993 in so far as it was not in force by S.I. 1993/2762, **art. 3**

Miscellaneous

181 No compensation where planning decision made after certain acquisitions.

(1) Section 23(3) of the [M113]Land Compensation Act 1961 (no compensation where planning decision made after certain acquisitions) shall be amended as follows.

[F113](2) . . . . . .

(3) After paragraph (c) there shall be inserted the words "or

(d) under Part III of the Leasehold Reform, Housing and Urban Development Act 1993 (acquisition by the Urban Regeneration Agency)."

[F113](4) . . . . . .

Textual Amendments

F113 S. 181(2)(4) repealed (1.10.1998) by 1998 c. 38, s. 152, **Sch. 18P**t. V (with ss. 137(1), 139(2), 141(1), 143(2)); S.I. 1998/2244, **art. 4**.

Commencement Information

I35 S. 181 wholly in force; s. 181(1)(2)(4) in force at Royal Assent see s. 188(2); s. 181(3) in force at 10.11.1993 by S.I. 1993/2762, **art. 3**

Marginal Citations

M113 1961 c. 33.

182 Powers of housing action trusts with respect to private streets.

(1) In subsection (1) of section 69 of the [M114]Housing Act 1988 (powers of housing action trusts with respect to private streets), for the words "in a private street (or part of a private street) in a designated area" there shall be substituted the words " on any land in a designated area which was then or has since become a private street (or part of a private street) ".

(2) In subsection (2) of that section, the words from "on grounds" onwards shall be omitted.

Marginal Citations
M114 1988 c. 50.

Supplemental

183 Notices.

(1) This section has effect in relation to any notice required or authorised by this Part to be given to or served on any person.

(2) Any such notice may be given to or served on the person in question either by delivering it to him, or by leaving it at his proper address, or by sending it by post to him at that address.

(3) Any such notice may—
(a) in the case of a body corporate, be given to or served on the secretary or clerk of that body; and
(b) in the case of a partnership, be given to or served on a partner or a person having the control or management of the partnership business.

(4) For the purposes of this section and of section 7 of the [M115]Interpretation Act 1978 (service of documents by post) in its application to this section, the proper address of any person to or on whom a notice is to be given or served shall be his last known address, except that—
(a) in the case of a body corporate or its secretary or clerk, it shall be the address of the registered or principal office of that body; and
(b) in the case of a partnership, a partner or a person having the control or management of the partnership business, it shall be that of the principal office of the partnership;

and for the purposes of this subsection the principal office of a company registered outside the United Kingdom or of a partnership carrying on business outside the United Kingdom shall be its principal office within the United Kingdom.

(5) If the person to be given or served with any notice mentioned in subsection (1) has specified an address within the United Kingdom other than his proper address within the meaning of subsection (4) as the one at which he or someone on his behalf will accept documents of the same description as that notice, that address shall also be treated for the purposes of this section and section 7 of the [M116]Interpretation Act 1978 as his proper address.

(6) If the name or address of any owner, lessee or occupier of land to or on whom any notice mentioned in subsection (1) is to be served cannot after reasonable inquiry be ascertained, the document may be served either by leaving it in the hands of a person who is or appears to be resident or employed on the land or by leaving it conspicuously affixed to some building or object on the land.

Marginal Citations
M115 1978 c. 30.
M116 1978 c. 30.

184 Dissolution of English Industrial Estates Corporation.

(1) The English Industrial Estates Corporation shall cease to exist on the commencement of this section.

(2) All the property, rights and liabilities to which that Corporation was entitled or subject immediately before that commencement shall become by virtue of this section property, rights and liabilities of the Agency.

185 Interpretation of Part III.

In this Part—

"the 1980 Act" means the [M117]Local Government, Planning and Land Act 1980;

"the Agency" means the Urban Regeneration Agency;

"designation order" and "designated area" have the meanings given by section 170;

"highway" has the same meaning as in the [M118]Highways Act 1980;

"private street" has the same meaning as in PartXI of that Act.

Marginal Citations
M117 1980 c. 65.
M118 1980 c. 66.

PART IV

SUPPLEMENTAL

186 Financial provisions.

(1) There shall be paid out of money provided by Parliament—

(a) any expenses of the Secretary of State incurred in consequence of this Act; and

(b) any increase attributable to this Act in the sums payable out of money so provided under any other enactment.

(2) There shall be paid into the Consolidated Fund any increase attributable to this Act in the sums payable into that Fund under any other enactment.

187 Amendments and repeals.

(1) The enactments mentioned in Schedule 21 to this Act shall have effect subject to the amendments there specified (being minor amendments and amendments consequential on the provisions of this Act).

(2) The enactments mentioned in Schedule 22 to this Act (which include some that are spent or no longer of practical utility) are hereby repealed to the extent specified in the third column of that Schedule.

Extent Information

E2 S. 187: by s. 188(7) it is provided that Pt. IV of this Act, except as therein mentioned, does not extend to N.I.

Commencement Information

I36 S. 187 partly in force; s. 187 not in force at Royal Assent see s. 188(2); s. 187(1)(2) partly in force at 2.9.1993, 27.9.1993, 11.10.1993, 1.11.1993 and 10.11.1993 in so far as they relate to certain paragraphs in Sch. 21 and certain repeals in Sch. 22 (and subject to the transitional provisions and savings in Sch. 1 to S.I. 1993/2134) by S.I. 1993/2134, **arts. 3** and 4, Schs. 1, 2; S.I. 1993/2163, art. 2, **Sch. 1**; S.I. 1993/2762, **art. 3**; 1.4.1994 in so far as it relates to certain repeals by 1994/935

188 Short title, commencement and extent.

(1) This Act may be cited as the Leasehold Reform, Housing and Urban Development Act 1993.

(2) This Act, except—

(a) this section;

(b) sections 126 and 127, 135 to 140, 149 to 151, 181(1), (2) and (4) and 186; and

(c) the repeal in section 80(1) of the [M119]Local Government and Housing Act 1989,

shall come into force on such day as the Secretary of State may by order made by statutory instrument appoint; and different days may be so appointed for different provisions or for different purposes.

(3) An order under subsection (2) may contain such transitional provisions and savings (whether or not involving the modification of any statutory provision) as appear to the Secretary of State necessary or expedient in connection with the provisions thereby brought into force by the order.

(4) The following, namely—

(a) Part I of this Act;

(b) Chapter I of Part II of this Act; and

(c) subject to subsection (6), Part III of this Act,

extend to England and Wales only.

(5) Chapter II of Part II of this Act extends to Scotland only.

(6) In Part III of this Act—

(a) sections [F114174], 179 and 180 also extend to Scotland; and

(b) paragraph 8 of Schedule 17 also extends to Scotland and Northern Ireland.

(7) This Part, except this section, paragraph 3 of Schedule 21 and the repeals in the M120House of Commons Disqualification Act 1975 and the M121Northern Ireland Assembly Disqualification Act 1975, does not extend to Northern Ireland.

Subordinate Legislation Made

P1 S. 188: s. 188 power exercised (1.9.1993) by S.I. 1993/2134; (3.9.1993) by S.I. 1993/2163; (4.11.1993) by S.I. 1993/2762; (25.3.1994) by S.I. 1994/935

Textual Amendments

F114 Words '174' in s. 188(6) repealed (E.W.S.) (24.9.1996) by 1996 c. 53, ss. 147, 150(2), **Sch. 3 Pt.III**

Marginal Citations

M119 1989 c. 42.

M120 1975 c. 24.

M121 1975 c. 25.

Status:
Point in time view as at 01/04/2002. This version of this Act contains provisions that are not valid for this point in time.

Changes to legislation:
Leasehold Reform, Housing and Urban Development Act 1993 is up to date with all changes known to be in force on or before 22 June 2024. There are changes that may be brought into force at a future date. Changes that have been made appear in the content and are referenced with annotations.