



Long Leases (Scotland) Act 1954

1954 CHAPTER 49

PART I

GRANT OF FEU RIGHT OF PROPERTY LET UNDER CERTAIN LONG LEASES

General provisions relating to grant of feu right

1 Lessee or sub-lessee under certain long leases may require landlord to grant feu right

- (1) Subject to the (provisions of this Part of this Act, where any property is let under a lease granted before the tenth day of August, nineteen hundred and fourteen, for a period of not less than fifty years, and such property or a part thereof is occupied as a private dwelling-house forming his usual residence by the lessee under such lease or by the sub-lessee under a sublease granted for a period of not less than fifty years, such lessee or sub-lessee so occupying (hereafter in this Part of this Act referred to as the " occupying lessee ") may give notice to the landlord under the lease requiring him to grant a feu right of the property or, where the occupying lessee is so occupying a part only of the property, of such part.
- (2) Any notice under this section shall be given within five years after the commencement of this Act.
- (3) In this Part of this Act, unless the context otherwise requires, the following expressions have the meanings hereby assigned to them respectively:—
 - " landlord " means any person for the time being holding the interest of landlord under a lease ;
 - " lease " means such a lease as is mentioned in subsection (1) of this section and does not include a sub-lease;
 - " lessee " means any person for the time being holding the interest of lessee under a lease ;
 - " sub-lease " means such a sub-lease as is mentioned in subsection (1) of this section of the property let under a lease or of a part of such property ; and

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" sub-lessee " means any person for the time being holding the interest of lessee under a sub-lease.

- (4) For the purposes of this Part of this Act,—
- (a) where a lease or a sub-lease has been assigned by *ex facie* absolute assignation, the person for the time being having the right of reversion in such lease or sub-lease shall be deemed to hold the interest of lessee thereunder;
 - (b) any garden, yard, garage, outhouse or pertinent belonging to and occupied along with any dwelling-house shall be deemed to form part of such dwelling-house ;
 - (c) a dwelling-house shall be deemed to be occupied as a private dwelling-house notwithstanding that a part thereof is used as a shop or office or for business, trade or professional purposes other than the sale of excise-able liquor for consumption on the premises.

2 Lessee or sub-lessee deemed to be occupying lessee in certain circumstances

Where any property let under a lease or a sublease is occupied in whole or in part by any person as a private dwelling-house forming his usual residence and—

- (a) the interest of lessee under such lease or sub-lease is held by the trustees of a trust in which the said person is beneficially interested ; or
- (b) the said interest is held by the trustees of any religious denomination and the said person occupies the property or such part thereof by virtue of his office as a minister or full-time lay missionary of that denomination ; or
- (c) the said interest is held by a person who acquired it by inheritance and the person so occupying the property or such part thereof is a member of the family of the lessee or sub-lessee from whom the said interest was so acquired and was residing with him in the property or such part thereof at the time of his death ;

the trustees or the person who acquired the said interest by inheritance, as the case may be, shall, for the purposes of this Part of this Act, be deemed to occupy the property or such part thereof as a private dwelling-house forming their usual residence and to be the occupying lessee.

3 Occupying lessee acquiring right on or after 10th May, 1951, not entitled to require grant of feu right

An occupying lessee under any lease or sub-lease who acquired his interest thereunder, otherwise than by inheritance, on or after the tenth day of May, nineteen hundred and fifty-one, shall not be entitled under this Part of this Act to require the grant of a feu right of any subjects let under such lease or sublease.

4 Refusal of grant of feu right on ground of public interest

- (1) Where the interest of landlord under a lease belongs to or is held for the purposes of a Government department and a notice requiring the grant of a feu right of any subjects let under such lease is given under section one of this Act by an occupying lessee, then if the Minister or Board in charge of any Government department certifies that it is not in the public interest that a feu right of the said subjects should be granted under this Part of this Act and the landlord, within three months after the date of the said

notice, sends to the occupying lessee a copy of such certificate, the occupying lessee shall not be entitled to the grant of such feu right.

(2) Where the landlord under a lease is a local authority or a development corporation and a notice requiring the grant of a feu right of any subjects let under such lease is given under section one of this Act by an occupying lessee, the landlord may apply to the Secretary of State for a certificate that it is not in the public interest that a feu right of the said subjects should be granted under this Part of this Act, and, if the Secretary of State so certifies and the landlord, within three months after the date of the said notice, sends to the occupying lessee a copy of such certificate, the occupying lessee shall not be entitled to the grant of such feu right.

(3) In this section—

" development corporation " has the same meaning as in the New Towns Act, 1946 ;

" Government department " does not include the Commissioners of Crown Lands ; and

" local authority " means a county council or a town council.

5 Power to certain landlords who have acquired property for occupation as residence, etc., to apply to sheriff for declarator refusing grant of feu right

(1) Where the landlord under a lease acquired his interest thereunder during the period beginning with the first day of January, nineteen hundred and thirty-nine, and ending with the ninth day of May, nineteen hundred and fifty-one, and a notice requiring the grant of a feu right of any subjects let under such lease is given under section one of this Act by an occupying lessee, the provisions of this section shall have effect.

(2) Such landlord may, within two months after the date of the notice referred to in the foregoing subsection, apply to the sheriff for a declarator that the occupying lessee is not entitled under this Part of this Act to the grant of a feu right of the said subjects and the sheriff shall pronounce such declarator if he is satisfied—

(a) that the landlord acquired his interest under the lease—

(i) for the purpose of occupying the subjects as a residence for himself ;
or

(ii) for the purpose of development involving demolition, alteration or reconstruction of the subjects or a substantial part thereof, being development for which permission under the enactments relating to town and country planning has been granted, or is deemed to have been granted, or is not required; and

(b) that, having regard to all the circumstances of the case, greater hardship would be caused to the landlord if a feu right of the subjects were granted than would be caused to the occupying lessee if it were not granted.

(3) In determining whether greater hardship would be caused if a feu right of the said subjects were granted than if it were not granted, the sheriff shall (without prejudice to the generality of paragraph (b) of the last foregoing subsection)—

(a) have regard to the considerations that, if he pronounces a declarator under this section, the occupying lessee will not be entitled under this Part of this Act to the grant of a feu right of the subjects, and that no provision is made in this Act for payment to the occupying lessee of compensation in that event; and

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- (b) disregard the fact that, if he refuses to pronounce such declarator and a feu right of the subjects is granted under this Part of this Act, such feu right will be granted on the financial terms set out in sections seven to nine of this Act.