



## 2001 CHAPTER 5

### *General provisions*

#### **Settled land**

**18.—**(1) In the application of this Act to settled land which is subject to or includes or comprises a ground rent—

- (a) subject to the following paragraphs, the limited owner is to be treated as the rent-payer or, as the case requires, the rent-owner;
- (b) where the limited owner is treated as the rent-payer—
  - (i) references (however expressed) to an estate of the rent-payer in the land or to his title are to be read as including references to the estate in the settled land which is the subject of the settlement or the title to that estate;
  - (ii) where a certificate of redemption is sealed, all estates in the land arising under the settlement (whether legal or equitable) are converted, in accordance with their nature, to take into account the consequences of that certificate;
- (c) where the limited owner is treated as the rent-owner, the trustees of the settlement are the persons entitled to (or to a share of) the redemption money;
- (d) where the settled land is registered land the powers of the Registrar for the purposes of this Act extend to making such entries, changes, cancellations or notes in the register, in relation to the settled land, as the case requires.

(2) Capital money of a settlement, and any personal estate held on the same trusts as the settled land, may be applied in payment of redemption money or of any costs incurred for the purposes of this Act (and, accordingly, the limited owner may look to the trustees of the settlement for reimbursement of

redemption money paid by him, other than money raised by him on the security of the settled land or part of it).

(3) Redemption money receivable is capital money for the purposes of a settlement.

(4) The payment of redemption money is included among the purposes for which a limited owner or the trustees of a settlement may raise money.

(5) In this section—

“limited owner” means a tenant for life of settled land or a person who has the powers of a tenant for life under the Settled Land Acts 1882 to 1890;

“settled land” means land which is or is deemed to be the subject of a settlement;

and “settlement” and “capital money” have the same meaning as in those Acts.

### **Cesser of Act of 1971 as to enlargement of leases to which this Act applies**

**19.** No notice of a proposal to acquire the fee simple shall be served under section 2 of the Act of 1971 in respect of any land subject to a ground rent which may be redeemed under section 1.

### **Avoidance of certain agreements**

**20.** Except so far as expressly provided by this Act, so much of any agreement as provides that any provision of this Act shall not apply in relation to a person or any land or that the application of any such provision shall be modified in relation to a person or any land is void.

### **Mental patients**

**21.—**(1) Where a rent-payer, a rent-owner or a superior owner is incapable, by reason of mental disorder within the meaning of the [Mental Health \(Northern Ireland\) Order 1986 \(NI 4\)](#), of managing and administering his property and affairs, his controller or (if no controller is acting for him) any person authorised in that behalf under an order of the High Court may represent him for all or any of the purposes of this Act.

(2) Subsection (1) does not prejudice the powers of a person appointed attorney under an enduring power of attorney which has taken effect.

### **Service of documents**

**22.—**(1) Any document permitted or required by this Act to be served on a rent-owner is duly served on him if it is served—

- (a) on any person who acts as agent for the rent-owner in respect of the land in question; or

(b) on the person who last demanded or received ground rent for the land.

(2) Any document permitted or required by this Act to be served on a rent-owner or a rent-payer may, where joint tenants or tenants in common are the rent-owners or rent-payers of any ground rent, be served on any one of them in respect of that rent, and such service shall be taken to be service on both or all of them.

(3) Where the estate of a rent-owner is subject to a mortgage and either the mortgagee is in possession or a receiver is in receipt of the rents and profits, any document required or permitted by this Act to be served on the rent-owner may, instead, be served on the mortgagee or the receiver, as the case may be.

### **Disputes**

**23.—**(1) Any question arising as to the matters mentioned in subsection (4) may be referred to the Registrar in accordance with rules.

(2) On a reference under subsection (1), the Registrar may, after or without holding a hearing (as he sees fit),—

(a) determine the question; or

(b) refer the question to the Lands Tribunal for determination by it.

(3) A person aggrieved by a determination of a question by the Registrar under subsection (2)(a) may appeal to the Lands Tribunal, and on such an appeal, or on a reference under subsection (2)(b), the Tribunal may determine the question.

(4) The matters referred to in subsection (1) are—

(a) the applicability of section 1 or section 2 in a particular case;

(b) the amount of the redemption money;

(c) the amount of arrears of ground rent or apportioned ground rent referred to in section 4(2)(b) and (c);

(d) what abatement is appropriate for the purpose of paragraph 3(3) of Schedule 1;

(e) the yearly amount of a ground rent which is subject to a future increase or a periodic review and falls to be determined under paragraph 4 or 5 of Schedule 1;

(f) any other difference arising under this Act (but not a difference as to a matter which may be subject to proceedings in a court other than the Lands Tribunal).

(5) Section 2 of the Land Registration Act (power of Registrar to summon witnesses) applies for the purposes of this Act as if the reference in subsection (1) of that section to any matter relating to registration under that Act included any question arising as mentioned in subsection (1).

(6) Section 85(3)(m) of the Land Registration Act (rules about award of costs by Registrar) applies also to the costs incurred on, or subsequent to, a reference to the Registrar under this section.

(7) An appeal from an award of costs by the Registrar under this section, or from his refusal to award costs, lies to the Lands Tribunal.

(8) An award of costs by the Registrar is a money judgment for the purposes of Article 4 of the [Judgments Enforcement \(Northern Ireland\) Order 1981 \(NI 6\)](#).

### **Offences**

**24.—**(1) A person who, in any document made, served or lodged under this Act—

- (a) makes a statement which he knows to be false; or
- (b) recklessly makes a statement which is false,

is guilty of an offence and is liable on summary conviction to a fine not exceeding level 4 on the standard scale.

(2) For the purposes of subsection (1) a statement is made recklessly if it is made regardless of whether it is true or false, whether or not the person making it had reasons for believing that it might be false.

(3) In this section “false” means false to a material degree.

### **Civil remedy for misstatement**

**25.—**(1) Subject to subsection (2), where in consequence of any misstatement made in any document made, served or lodged under this Act a person has suffered loss, the person who made the misstatement is liable to damages in respect of the misstatement notwithstanding that the misstatement was not made fraudulently.

(2) A person is not liable under subsection (1) if he proves that he had reasonable grounds to believe and did believe that the facts represented were true.

### **Fees and rules**

**26.—**(1) An order under subsection (1) of section 84 of the Land Registration Act may prescribe the fees to be taken in the Land Registry for the purposes of this Act as well as for the purposes of that Act, and accordingly references in that section to that Act includes references to this Act and the reference to expenses of the Land Registry attributable to its registration functions includes a reference to expenses attributable to any function conferred by this Act on the Registrar.

(2) Land Registry Rules under subsection (3) of section 85 of the Land Registration Act may be made for giving effect to this Act as well as for giving effect to that Act, and accordingly in the introductory words of that subsection,

and in paragraphs (a), (k) and (n) of that subsection, references to that Act include references to this Act, and in paragraphs (c), (f) and (j) references to the register include the register kept under section 5(2).

(3) For the purposes of this Act, the reference in section 85(3)(k) of the Land Registration Act to documents to be given includes documents to be served or lodged.

(4) Rules may make such provisions (including modifications of this Act) as are necessary or expedient to give effect to the purposes of this Act in cases falling within section 18.

(5) Rules may require the authentication in a prescribed manner of a copy of a document, where the copy is permitted or required by or under this Act to be lodged or delivered or is deemed by rules to be that document.