
STATUTORY INSTRUMENTS

1997 No. 1179

The Property (Northern Ireland) Order 1997

PART III

FREEHOLD COVENANTS AND CERTAIN LEASES

Leases

[^{F1}Redemption of nominal ground rent

35A.—(1) Subject to paragraph (2), this Article applies where the rent payable under a fee farm grant is a nominal rent.

(2) This Article does not apply at a time when—

- (a) the land is used wholly for business purposes; or
- (b) the rent-payer is prohibited by any term of his title from using the land otherwise than wholly for business purposes;

but land is not prevented from being used wholly for business purposes by reason only of the fact that part of it is occupied as a dwelling by a person who is required or permitted to reside there in consequence of his employment or of holding an office.

(3) The rent-payer may by deed (“the deed of declaration”) declare to the effect that the ground rent is discharged and may, in accordance with rules, make application to the Registrar for the purpose mentioned in paragraph (4)(a) or (b).

(4) On an application under paragraph (3)—

- (a) if the land is registered land, the deed of declaration is sufficient authority for the Registrar (subject to compliance with rules)—
 - (i) to discharge any burden as is mentioned in paragraph 2 of Part I of Schedule 6 to the Land Registration Act; and
 - (ii) to make such alteration in the class of title with which the land is registered as appears to him to be appropriate;
- (b) if the land is not registered, the Registrar may register the rent-payer's title with such class of title as appears to him to be appropriate (and until the rent-payer's title to the land is so registered, the deed of declaration has no effect);
- (c) in either case, the deed of declaration is sufficient authority (notwithstanding any caution or inhibition) for the Registrar to make in the register such consequential entries, changes, cancellations or notes as appear to him to be appropriate;

(5) Except where the Registrar is satisfied that the land was subject to no or nominal superior rent on the date of execution of the deed of declaration, the Registrar shall enter on the register a note to the effect that the fee simple estate is subject to a rentcharge of so much (if any) of any superior rent as would have been redeemed by virtue of section 11(1) of the Ground Rents Act (Northern Ireland) 2001 if a ground rent to which the land was subject had been redeemed under section 1 of that Act on

that date; and such a note may be discharged in accordance with rules, and it is sufficient to satisfy the Registrar as to the matter mentioned at the beginning of this paragraph that he is furnished by a solicitor with a certificate to that effect.

(6) Subject to paragraphs (4), (5) and (7), the deed of declaration operates by virtue of this paragraph to discharge the estate of the rent payer from all estates in the land of the rent-owner and any superior owners to the extent that those estates carry entitlement to ground rent or a superior rent or relate to matters connected with the rent and to that extent those estates are extinguished.

(7) Where a ground rent is discharged under this Article, section 13(8) (read with subsection (10)) and sections 15(2), 16 and 17 of the Ground Rents Act (Northern Ireland) 2001 apply in relation to the land as if the ground rent had been redeemed under that Act; and, accordingly, for the purposes of this Article those sections shall be read with the necessary modifications.

(8) For the purposes of paragraph (6) matters are connected with rent if they are concerned with the amount of the rent or its payment or recovery or are otherwise concerned (directly or indirectly) with the rent.

(9) In this Article “nominal rent” has the same meaning as in Article 35.^{F1}]

F1 2001 c. 5 (NI)

Changes to legislation:

There are currently no known outstanding effects for the The Property (Northern Ireland) Order 1997, Section 35A.