



# Law of Property Act 1969

## 1969 CHAPTER 59

An Act to amend Part II of the Landlord and Tenant Act 1954; to provide for the closing of the Yorkshire deeds registries; to amend the law relating to dispositions of estates and interests in land and to land charges; to make further provision as to the powers of the Lands Tribunal and court in relation to restrictive covenants affecting land; and for purposes connected with those matters. [22nd October 1969]

BE IT ENACTED by the Queen's most Excellent Majesty, by and with the advice and consent of the Lords Spiritual and Temporal, and Commons, in this present Parliament assembled, and by the authority of the same, as follows:—

### PART I

#### AMENDMENT OF PART II OF LANDLORD AND TENANT ACT 1954

##### *Provisions as to rent*

#### **1 Improvements to be disregarded in fixing rent**

(1) In section 34 of the Act of 1954 (rent under new tenancy) the following paragraph shall be substituted for paragraph (c) (improvements to be disregarded):—

“(c) any effect on rent of an improvement to which this paragraph applies”  
and the following subsection shall be added (the present section, as amended by the foregoing provisions, becoming subsection (1)):—

“(2) Paragraph (c) of the foregoing subsection applies to any improvement carried out by a person who at the time it was carried out was the tenant, but only if it was carried out otherwise than in pursuance of an obligation to his immediate landlord, and either it was carried out during the current tenancy or the following conditions are satisfied, that is to say.—

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- (a) that it was completed not more than twenty-one years before the application for the new tenancy was made; and
- (b) that the holding or any part of it affected by the improvement has at all times since the completion of the improvement been comprised in tenancies of the description specified in section 23(1) of this Act; and
- (c) that at the termination of each of those tenancies the tenant did not quit.”

(2) In section 41(1)(b) and section 42(2)(b) of the Act of 1954 the words " subsection (1) of " shall be inserted before the words " section 34 ".

## 2 **Determination of variable rent**

At the end of section 34 of the Act of 1954 (rent under new tenancy) there shall be added the following subsection:—

“(3) Where the rent is determined by the court the court may, if it thinks fit, further determine that the terms of the tenancy shall include such provision for varying the rent as may be specified in the determination.”

## 3 **Rent while tenancy continues by virtue of s. 24 of Act of 1954**

(1) After section 24 of the Act of 1954 there shall be inserted the following section:—

- (1) The landlord of a tenancy to which this Part of this Act applies may.—
- (a) if he has given notice under section 25 of this Act to terminate the tenancy ; or
  - (b) if the tenant has made a request for a new tenancy in accordance with section 26 of this Act;

apply to the court to determine a rent which it would be reasonable for the tenant to pay while the tenancy continues by virtue of section 24 of this Act, and the court may determine a rent accordingly.

(2) A rent determined in proceedings under this section shall be deemed to be the rent payable under the tenancy from the date on which the proceedings were commenced or the date specified in the landlord's notice or the tenant's request, whichever is the later.

(3) In determining a rent under this section the court shall have regard to the rent payable under the terms of the tenancy, but otherwise subsections (1) and (2) of section 34 of this Act shall apply to the determination as they would apply to the determination of a rent under that section if a new tenancy from year to year of the whole of the property comprised in the tenancy were granted to the tenant by order of the court.”

(2) In section 24(1)(a) of the Act of 1954 for the words " the next following section " there shall be substituted the words " section 25 of this Act ".

*Termination of tenancy and right to new tenancy*

**4 Restriction on termination of tenancy by agreement**

- (1) At the end of section 24(2) of the Act of 1954 (which includes notice to quit by the tenant and surrender among the means by which a tenancy to which Part II of that Act applies can be brought to an end) there shall be added the words " unless—
- (a) in the case of a notice to quit, the notice was given before the tenant had been in occupation in right of the tenancy for one month ; or
  - (b) in the case of an instrument of surrender, the instrument was executed before, or was executed in pursuance of an agreement made before, the tenant had been in occupation in right of the tenancy for one month."
- (2) Section 27 of the Act of 1954 (termination by tenant of tenancy for fixed term) shall be amended as follows:—
- (a) at the end of subsection (1) (notice by tenant that he does not desire tenancy to be continued) there shall be added the words " unless the notice is given before the tenant has been in occupation in right of the tenancy for one month "; and
  - (b) in subsection (2) (termination on quarter day by tenant's notice) the words " before or " shall be omitted and at the end of the subsection there shall be added the words " or before that date, but not before the tenant has been in occupation in right of the tenancy for one month ".

**5 Exclusion of provisions of Part II of Act of 1954 by authorised agreement**

In subsection (1) of section 38 of the Act of 1954 (restriction on agreements excluding provisions of Part II) after the words "shall be void" there shall be inserted the words " (except as provided by subsection (4) of this section) " and at the end of the section there shall be added the following subsection:—

- “(4) The court may—
- (a) on the joint application of the persons who will be the landlord and the tenant in relation to a tenancy to be granted for a term of years certain which will be a tenancy to which this Part of this Act applies, authorise an agreement excluding in relation to that tenancy the provisions of sections 24 to 28 of this Act; and
  - (b) on the joint application of the persons who are the landlord and the tenant in relation to a tenancy to which this Part of this Act applies, authorise an agreement for the surrender of the tenancy on such date or in such circumstances as may be specified in the agreement and on such terms (if any) as may be so specified;
- if the agreement is contained in or endorsed on the instrument creating the tenancy or such other instrument as the court may specify; and an agreement contained in or endorsed on an instrument in pursuance of an authorisation given under this subsection shall be valid notwithstanding anything in the preceding provisions of this section.”

**6 Business carried on by company controlled by landlord**

At the end of section 30 of the Act of 1954 there shall be added the following subsection:—

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“(3) Where the landlord has a controlling interest in a company any business to be carried on by the company shall be treated for the purposes of subsection (1) (g) of this section as a business to be carried on by him.

For the purposes of this subsection, a person has a controlling interest in a company if and only if either—

- (a) he is a member of it and able, without the consent of any other person, to appoint or remove the holders of at least a majority of the directorships ; or
- (b) he holds more than one-half of its equity share capital, there being disregarded any shares held by him in a fiduciary capacity or as nominee for another person;

and in this subsection ' company' and ' share' have the meanings assigned to them by section 455(1) of the Companies Act 1948 and ' equity share capital' the meaning assigned to it by section 154(5) of that Act.”

## 7 **Grant of new tenancy in some cases where section 30(1)(f) applies**

(1) After section 31 of the Act of 1954 there shall be inserted the following section:—

(1) Where the landlord opposes an application under section 24(1) of this Act on the ground specified in paragraph (f) of section 30(1) of this Act the court shall not hold that the landlord could not reasonably carry out the demolition, reconstruction or work of construction intended without obtaining possession of the holding if—

- (a) the tenant agrees to the inclusion in the terms of the new tenancy of terms giving the landlord access and other facilities for carrying out the work intended and, given that access and those facilities, the landlord could reasonably carry out the work without obtaining possession of the holding and without interfering to a substantial extent or for a substantial time with the use of the holding for the purposes of the business carried on by the tenant; or
- (b) the tenant is willing to accept a tenancy of an economically separable part of the holding and either paragraph (a) of this section is satisfied with respect to that part or possession of the remainder of the holding would be reasonably sufficient to enable the landlord to carry out the intended work.

(2) For the purposes of subsection (1)(b) of this section a part of a holding shall be deemed to be an economically separable part if, and only if, the aggregate of the rents which, after the completion of the intended work, would be reasonably obtainable on separate lettings of that part and the remainder of the premises affected by or resulting from the work would not be substantially less than the rent which would then be reasonably obtainable on a letting of those premises as a whole.”

(2) In section 32 of the Act of 1954 (property to be comprised in new tenancy) for the words " Subject to the next following subsection " there shall be substituted the words " Subject to the following provisions of this section " ; and after subsection (1) there shall be inserted the following subsection:—

“(1A) Where the court, by virtue of paragraph (b) of section 31A(1) of this Act, makes an order under section 29 of this Act for the grant of a new tenancy in

a case where the tenant is willing to accept a tenancy of part of the holding, the order shall be an order for the grant of a new tenancy of that part only.”

## **8 Power to exclude rights enjoyed with holding**

At the end of section 32(3) of the Act of 1954 (rights to be included in new tenancy) there shall be added the words " except as otherwise agreed between the landlord and the tenant or, in default of such agreement, determined by the court. "

## **9 Partnerships**

After section 41 of the Act of 1954 there shall be inserted the following section:—

- (1) The following provisions of this section shall apply where—
  - (a) a tenancy is held jointly by two or more persons (in this section referred to as the joint tenants); and
  - (b) the property comprised in the tenancy is or includes premises occupied for the purposes of a business; and
  - (c) the business (or some other business) was at some time during the existence of the tenancy carried on in partnership by all the persons who were then the joint tenants or by those and other persons and the joint tenants' interest in the premises was then partnership property; and
  - (d) the business is carried on (whether alone or in partnership with other persons) by one or some only of the joint tenants and no part of the property comprised in the tenancy is occupied, in right of the tenancy, for the purposes of a business carried on (whether alone or in partnership with other persons) by the other or others.
- (2) In the following provisions of this section those of the joint tenants who for the time being carry on the business are referred to as the business tenants and the others as the other joint tenants.
- (3) Any notice given by the business tenants which, had it been given by all the joint tenants, would have been—
  - (a) a tenant's request for a new tenancy made in accordance with section 26 of this Act; or
  - (b) a notice under subsection (1) or subsection (2) of section 27 of this Act; shall be treated as such if it states that it is given by virtue of this section and sets out the facts by virtue of which the persons giving it are the business tenants; and references in those sections and in section 24A of this Act to the tenant shall be construed accordingly.
- (4) A notice given by the landlord to the business tenants which, had it been given to all the joint tenants, would have been a notice under section 25 of this Act shall be treated as such a notice, and references in that section to the tenant shall be construed accordingly.
- (5) An application under section 24(1) of this Act for a new tenancy may, instead of being made by all the joint tenants, be made by the business tenants alone; and where it is so made—
  - (a) this Part of this Act shall have effect, in relation to it, as if the references therein to the tenant included references to the business tenants alone ; and

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(b) the business tenants shall be liable, to the exclusion of the other joint tenants, for the payment of rent and the discharge of any other obligation under the current tenancy for any rental period beginning after the date specified in the landlord's notice under section 25 of this Act or, as the case may be, beginning on or after the date specified in their request for a new tenancy.

(6) Where the court makes an order under section 29(1) of this Act for the grant of a new tenancy on an application made by the business tenants it may order the grant to be made to them or to them jointly with the persons carrying on the business in partnership with them, and may order the grant to be made subject to the satisfaction, within a time specified by the order, of such conditions as to guarantors, sureties or otherwise as appear to the court equitable, having regard to the omission of the other joint tenants from the persons who will be the tenant under the new tenancy.

(7) The business tenants shall be entitled to recover any amount payable by way of compensation under section 37 or section 59 of this Act.”

## **10 Group of companies**

For subsection (3) of section 42 of the Act of 1954 (Group of companies) there shall be substituted the following subsection:—

“(3) Where the landlord's interest is held by a member of a group—

- (a) the reference in paragraph (g) of subsection (1) of section 30 of this Act to intended occupation by the landlord for the purposes of a business to be carried on by him shall be construed as including intended occupation by any member of the group for the purposes of a business to be carried on by that member; and
- (b) the reference in subsection (2) of that section to the purchase or creation of any interest shall be construed as a reference to a purchase from or creation by a person other than a member of the group.”

### *Miscellaneous*

## **11 Compensation where no application to court is made**

In section 37(1) of the Act of 1954 (compensation where court precluded from making an order for new tenancy on any of the grounds specified in paragraphs (e), (f) and (g) of section 30(1)) after the words " of that subsection" there shall be inserted the words " or where no other ground is specified in the landlord's notice under section 25 of this Act or, as the case may be, under section 26(6) thereof, than those specified in the said paragraphs (e), (f) and (g) and either no application under the said section 24 is made or such an application is withdrawn ".

## **12 Duration of short tenancies excluded from Part II of Act of 1954**

- (1) In section 43(3) of the Act of 1954 (exclusion of certain tenancies granted for not more than three months) for the words " three months ", in both places where they occur, there shall be substituted the words " six months " and for the words " six months " (in paragraph (b)) the words " twelve months ".

- (2) Subsection (1) of this section does not apply to tenancies granted before the commencement of this Act.

### **13 Jurisdiction of county court to make declaration**

After section 43 of the Act of 1954 there shall be inserted the following section:—

Where the rateable value of the holding is such that the jurisdiction conferred on the court by any other provision of this Part of this Act is, by virtue of section 63 of this Act, exercisable by the county court, the county court shall have jurisdiction (but without prejudice to the jurisdiction of the High Court) to make any declaration as to any matter arising under this Part of this Act, whether or not any other relief is sought in the proceedings.”

### **14 Definition of landlord and further provisions where immediate landlord is not the freeholder**

- (1) In section 44(1) of the Act of 1954 the following paragraph shall be substituted for paragraph (b):

“(b) that it is either the fee simple or a tenancy which will not come to an end within fourteen months by effluxion of time and, if it is such a tenancy, that no notice has been given by virtue of which it will come to an end within fourteen months or any further time by which it may be continued under section 36(2) or section 64 of this Act”.

- (2) The following shall be added at the end of Schedule 6 to the Act of 1954:—

*“Withdrawal by competent landlord of notice given by mesne landlord*

- 6 Where the competent landlord has given a notice under section 25 of this Act to terminate the relevant tenancy and, within two months after the giving of the notice, a superior landlord—

- (a) becomes the competent landlord; and  
(b) gives to the tenant notice in the prescribed form that he withdraws the notice previously given ;

the notice under section 25 of this Act shall cease to have effect, but without prejudice to the giving of a further notice under that section by the competent landlord.

*Duty to inform superior landlords*

- 7 If the competent landlord's interest in the property comprised in the relevant tenancy is a tenancy which will come or can be brought to an end within sixteen months (or any further time by which it may be continued under section 36(2) or section 64 of this Act) and he gives to the tenant under the relevant tenancy a notice under section 25 of this Act to terminate the tenancy or is given by him a notice under section 26(3) of this Act:—

- (a) the competent landlord shall forthwith send a copy of the notice to his immediate landlord; and  
(b) any superior landlord whose interest in the property is a tenancy shall forthwith send to his immediate landlord any copy which

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has been sent to him in pursuance of the preceding sub-paragraph or this sub-paragraph”.

## **15 Certain provisions of Part II of Act of 1954 set out as amended**

Sections 24, 27, 30, 32, 34, 37, 38, 42 and 44 of the Act of 1954 and Schedule 6 to that Act, and section 43(3) of that Act as it applies to tenancies granted after the commencement of this Act, are set out as amended by this Part of this Act in Schedule 1 to this Act.

## **PART II**

### **CLOSING OF YORKSHIRE DEEDS REGISTRIES**

## **16 Closing of Yorkshire deeds registries**

- (1) The deeds register maintained at a Yorkshire deeds registry shall be closed as respects the registration of instruments made on or after the date which under this section is the relevant date in relation to that registry ; and accordingly the Act of 1884 and section 11 of the Law of Property Act 1925 (instruments capable of registration in a local deeds registry) shall not apply to any instrument made on or after that date so far as it affects land within the jurisdiction of that registry.
- (2) At the expiration of the period of two years beginning with the date which under this section is the relevant date in relation to a Yorkshire deeds registry the deeds register maintained there shall be closed for all purposes; and thereupon the enactments specified in Part I of Schedule 2 to this Act shall, to the extent specified in the third column of that Schedule, be repealed as respects that register, that registry and the area which was within its jurisdiction.
- (3) For the purposes of this section the relevant date in relation to a Yorkshire deeds registry is the date of the coming into force, as respects any part of the area within its jurisdiction, of any Order in Council made after the commencement of this Act under section 120 of the Land Registration Act 1925 (power to extend area of compulsory registration of title to land) except that the Lord Chancellor may, at the request of the county council, by an order made by statutory instrument direct that it shall be such earlier date as may be specified in the order.

## **17 Land charges registered in Yorkshire deeds registry**

- (1) As from the date which under section 16(3) of this Act is the relevant date in relation to a Yorkshire deeds registry—
  - (a) section 10(6) of the Land Charges Act 1925 (certain land charges affecting land in any of the three ridings to be registered in the appropriate local deeds registry) shall not apply to the registration of any charge so far as it affects land which is then within the jurisdiction of the registry ; and
  - (b) section 97 of the Law of Property Act 1925 (priorities as between certain mortgages of unregistered land not within the jurisdiction of a local deeds registry to be determined according to dates of registration under the Land Charges Act 1925) shall apply in relation to land which is then within the jurisdiction of the registry as it applies to land which was never within the jurisdiction of any local deeds registry ;



and accordingly as from that date the enactments specified in Part II of Schedule 2 to this Act shall, to the extent specified in the third column of that Schedule, be repealed as respects that registry and the area which is then within its jurisdiction.

- (2) As soon as may be after subsection (1) of this section has come into force in relation to a Yorkshire deeds registry, the register of land charges maintained there pursuant to section 10(6) of the Land Charges Act 1925 shall be transferred to the Land Charges Department of Her Majesty's Land Registry in accordance with directions given for the purpose by the Chief Land Registrar.
- (3) The Chief Land Registrar may direct that, during such period (not exceeding seven days) as he considers requisite for effecting the transfer of a register under subsection (2) of this section, no search shall be permitted in that register under section 16 of the Land Charges Act 1925 and that any certificate issued during that period under section 17 of that Act shall not be conclusive as to the existence or otherwise of any entry of a matter or document whereof entries were required or allowed to be made in that register.
- (4) The Chief Land Registrar shall give notice of any direction under the last foregoing subsection in such manner as appears to him to be appropriate.
- (5) A puisne mortgage registered in the deeds register maintained at a Yorkshire deeds registry shall be registrable under the Land Charges Act 1925 to the same extent as a puisne mortgage not registered in any local deeds register, and accordingly in section 10(1) of that Act, in Class C(i), the words " and (where the whole of the land affected is within the jurisdiction of a local deeds registry) not being registered in the local deeds register " are hereby repealed.
- (6) No fee shall be payable on the registration as a land charge under the Land Charges Act 1925 of a mortgage which becomes capable of registration under that Act by virtue of subsection (5) of this section.
- (7) Where before the commencement of this Act a person has purported to register under the Land Charges Act 1925 a mortgage which was incapable of such registration because already registered in the deeds register maintained at a Yorkshire deeds registry, the purported registration shall be treated as valid notwithstanding the prior registration in the deeds register.

## **18 Disposal of registers of closed registries**

- (1) A deeds register which under section 16(2) of this Act has been closed for all purposes shall be treated, in relation to the county council concerned, as included among the records and documents to which section 279(1) of the Local Government Act 1933 (custody of county records) applies.
- (2) A county council shall preserve any document forming part of a register to which subsection (1) of this section applies which they consider deserves preservation on historical or other grounds and shall, before destroying or otherwise disposing of any other document forming part of such a register, make and preserve a copy (which may be a microfilm) of that document if they consider that on historical or other grounds a copy of it should be preserved.
- (3) In this section "a deeds register " includes any books, indexes or other documents connected with the business of deeds registration at the registry in question.

## **19 Provisions relating to registrars etc.**

- (1) As respects anything falling to be done by or to a registrar under section 49 of the Act of 1884 (actions for neglect, etc.) after the date on which his appointment terminates by virtue of section 16(2) of this Act, the said section 49 shall have effect as if for references to the registrar there were substituted references to the clerk of the county council; and any action pending on that date in which by virtue of that section the registrar is sued as nominal defendant may be continued against the said clerk as nominal defendant.
- (2) The Lord Chancellor may make regulations requiring the county council to pay compensation (subject to such exceptions or conditions as may be prescribed in the regulations) to or in respect of persons who are or were employed for the purposes of a Yorkshire deeds registry and who suffer loss of employment, or loss or diminution of emoluments, in consequence of this Part of this Act.
- (3) Regulations under subsection (2) of this section may include provision as to the manner in which and the person to whom any claim for compensation under the regulations is to be made, and for the determination of all questions arising under the regulations.
- (4) The power to make regulations under subsection (2) of this section shall be exercisable by statutory instrument, and any statutory instrument containing regulations so made shall be subject to annulment in pursuance of a resolution of either House of Parliament.

## **20 Compensation for county councils**

- (1) If the expenses incurred by the county council in respect of a Yorkshire deeds registry during the period of two years beginning with the date which under section 16(3) of this Act is the relevant date in relation to that registry (including expenses in consequence of any regulations made under section 19(2) of this Act) exceed the receipts of the council in respect of the registry during that period, the Treasury shall pay to the council a sum equal to the excess.
- (2) Any dispute under this section shall be determined by arbitration.

## **21 Indemnity for members of the public who suffer loss**

- (1) Subject to the provisions of this section, any person suffering loss by reason of—
  - (a) section 16(2) of this Act so far as it repeals sections 19 and 20 of the Act of 1884 (searches) or section 197 of the Law of Property Act 1925 (registration in local deeds registry to constitute actual notice); or
  - (b) section 17(1)(b), (5) or (7) of this Act,shall be entitled to be indemnified in respect of that loss.
- (2) No indemnity shall be payable under this section in respect of any loss where the applicant has himself caused or substantially contributed to the loss by his act, neglect or default.
- (3) Subsection (2) of this section shall not apply to any failure on the part of the applicant to register under the Land Charges Act 1925 a puisne mortgage which became capable of such registration by virtue of section 17(5) of this Act, but if—

- (a) the mortgage is not registered under that Act before the expiration of two years beginning with the date which under section 16(3) of this Act is the relevant date in relation to the Yorkshire deeds registry in question; and
- (b) the loss could have been prevented by the registration or earlier registration thereof,

no indemnity shall be payable unless there is reasonable excuse for the failure to register the mortgage in time to prevent the loss.

- (4) Any indemnity under this section shall include a reasonable sum in respect of any costs or expenses properly incurred by the applicant in relation to the matter.
- (5) If any question arises as to whether a person is entitled to an indemnity under this section, or as to the amount of any such indemnity, he may apply to the High Court to have that question determined.
- (6) Any indemnity under this section shall be paid by the Chief Land Registrar; and where an indemnity is paid the Chief Land Registrar shall be entitled, on behalf of the Crown—
  - (a) to recover the amount paid from any person who has caused or substantially contributed to the loss by his fraud; and
  - (b) to enforce any express or implied covenant or other right which the person who is indemnified would have been entitled to enforce in relation to the matter in respect of which the indemnity was paid.

## **22 Proof of registration**

- (1) A certificate of the registration of an instrument in a deeds register maintained at a Yorkshire deeds registry endorsed on the instrument by an officer of the registry shall, after the register has been closed for all purposes under section 16(2) of this Act, be conclusive evidence for all purposes of the facts certified.
- (2) A writing endorsed on an instrument and purporting to be such a certificate as aforesaid shall be received in evidence and be deemed to be such a certificate without further proof unless the contrary is shown.

## **PART III**

### **AMENDMENT OF LAW RELATING TO DISPOSITIONS OF ESTATES AND INTERESTS IN LAND AND TO LAND CHARGES**

## **23 Reduction of statutory period of title**

Section 44(1) of the Law of Property Act 1925 (under which the period of commencement of title which may be required under a contract expressing no contrary intention is thirty years except in certain cases) shall have effect, in its application to contracts made after the commencement of this Act, as if it specified fifteen years instead of thirty years as the period of commencement of title which may be so required.

**24 Contracts for purchase of land affected by land charge, etc.**

- (1) Where under a contract for the sale or other disposition of any estate or interest in land the title to which is not registered under the Land Registration Act 1925 or any enactment replaced by it any question arises whether the purchaser had knowledge, at the time of entering into the contract, of a registered land charge, that question shall be determined by reference to his actual knowledge and without regard to the provisions of section 198 of the Law of Property Act 1925 (under which registration under the Land Charges Act 1925 or any enactment replaced by it is deemed to constitute actual notice).
- (2) Where any estate or interest with which such a contract is concerned is affected by a registered land charge and the purchaser, at the time of entering into the contract, had not received notice and did not otherwise actually know that the estate or interest was affected by the charge, any provision of the contract shall be void so far as it purports to exclude the operation of subsection (1) above or to exclude or restrict any right or remedy that might otherwise be exercisable by the purchaser on the ground that the estate or interest is affected by the charge.
- (3) In this section—
  - " purchaser " includes a lessee, mortgagee or other person acquiring or intending to acquire an estate or interest in land; and
  - " registered land charge " means any instrument or matter registered, otherwise than in a register of local land charges, under the Land Charges Act 1925 or any Act replaced by it.
- (4) For the purposes of this section any knowledge acquired in the course of a transaction by a person who is acting therein as counsel, or as solicitor or other agent, for another shall be treated as the knowledge of that other.
- (5) This section does not apply to contracts made before the commencement of this Act.

**25 Compensation in certain cases for loss due to undisclosed land charges**

- (1) Where a purchaser of any estate or interest in land under a disposition to which this section applies has suffered loss by reason that the estate or interest is affected by a registered land charge, then if—
  - (a) the date of completion was after the commencement of this Act; and
  - (b) on that date the purchaser had no actual knowledge of the charge; and
  - (c) the charge was registered against the name of an owner of an estate in the land who was not as owner of any such estate a party to any transaction, or concerned in any event, comprised in the relevant title;the purchaser shall be entitled to compensation for the loss.
- (2) For the purposes of subsection (1)(b) above, the question whether any person had actual knowledge of a charge shall be determined without regard to the provisions of section 198 of the Law of Property Act 1925 (under which registration under the Land Charges Act 1925 or any enactment replaced by it is deemed to constitute actual notice).
- (3) Where a transaction comprised in the relevant title was effected or evidenced by a document which expressly provided that it should take effect subject to an interest or obligation capable of registration in any of the relevant registers, the transaction which

created that interest or obligation shall be treated for the purposes of subsection (1)(c) above as comprised in the relevant title.

(4) Any compensation for loss under this section shall be paid by the Chief Land Registrar, and where the purchaser of the estate or interest in question has incurred expenditure for the purpose—

- (a) of securing that the estate or interest is no longer affected by the registered land charge or is so affected to a less extent; or
- (b) of obtaining compensation under this section ;

the amount of the compensation shall include the amount of the expenditure (so far as it would not otherwise fall to be treated as compensation for loss) reasonably incurred by the purchaser for that purpose.

(5) In the case of an action to recover compensation under this section, the cause of action shall be deemed for the purposes of the Limitation Act 1939 to accrue at the time when the registered land, charge affecting the estate or interest in question comes to the notice of the purchaser.

(6) Any proceedings for the recovery of compensation under this section shall be commenced in the High Court; and if in such proceedings the High Court dismisses a claim to compensation it shall not order the purchaser to pay the Chief Land Registrar's costs unless it considers that it was unreasonable for the purchaser to commence the proceedings.

(7) Rules under the Land Charges Act 1925 may include provision—

- (a) requiring the Chief Land Registrar to take steps in relation to any registered land charge in respect of which compensation has been claimed under this section which would be likely to bring the charge to the notice of any person who subsequently makes a search, or requires a search to be made, of the relevant registers in relation to the estate or interest affected by the charge; and
- (b) authorising the use of the alphabetical index kept under that Act in any manner which will serve that purpose, notwithstanding that its use in that manner is not otherwise authorised by or by virtue of that Act.

(8) Where compensation under this section has been paid in a case where the purchaser would have had knowledge of the registered land charge but for the fraud of any person, the Chief Land Registrar, on behalf of the Crown, may recover the amount paid from that person.

(9) This section applies to the following dispositions, that is to say—

- (a) any sale or exchange and, subject to the following provisions of this subsection, any mortgage of an estate or interest in land;
- (b) any grant of a lease for a term of years derived out of a leasehold interest;
- (c) any compulsory purchase, by whatever procedure, of land; and
- (d) any conveyance of a fee simple in land under Part I of the Leasehold Reform Act 1967 ;

but does not apply to the grant of a term of years derived out of the freehold or the mortgage of such a term by the lessee; and references in this section to a purchaser shall be construed accordingly.

(10) In this section—

" date of completion ", in relation to land which vests in the Land Commission or another acquiring authority by virtue of a general vesting

declaration under the Land Commission Act 1967 or the Town and Country Planning Act 1968, means the date on which it so vests;

" mortgage " includes any charge ;

" registered land charge " means any instrument or matter registered, otherwise than in a register of local land charges, under the Land Charges Act 1925 or any Act replaced by it, except that—

(a) in relation to an assignment of a lease or underlease or a mortgage by an assignee under such an assignment, it does not include any instrument or matter affecting the title to the freehold or to any relevant leasehold reversion ; and

(b) in relation to the grant of an underlease or the mortgage by the underlessee of the term of years created by an underlease, it does not include any instrument or matter affecting the title to the freehold or to any leasehold reversion superior to the leasehold interest out of which the term of years is derived;

" relevant registers " means the registers kept under section 1 of the Land Charges Act 1925 ;

" relevant title " means—

(a) in relation to a disposition made under a contract, the title which the purchaser was, apart from any acceptance by him (by agreement or otherwise) of a shorter or an imperfect title, entitled to require; or

(b) in relation to any other disposition, the title which he would have been entitled to require if the disposition had been made under a contract to which section 44(1) of the Law of Property Act 1925 applied and that contract had been made on the date of completion.

(11) For the purposes of this section any knowledge acquired in the course of a transaction by a person who is acting therein as counsel, or as solicitor or other agent, for another shall be treated as the knowledge of that other.

## **26 Registration of land charges created by companies**

Section 10(5) of the Land Charges Act 1925 (by virtue of which registration under section 95 of the Companies Act 1948 takes effect, in the case of a land charge for securing money created by a company, as if it were registration under the Land Charges Act 1925) shall not apply to any charge created after the commencement of this Act other than one created as a floating charge, and accordingly in that subsection, after the words " created by a company ", there shall be inserted the words " before 1st January 1970 or so created at any time as a floating charge " .

## **27 Land improvement charges**

After section 11 of the Land Charges Act 1925 (under which certain land charges take effect as charges by way of legal mortgage) there shall be inserted the following section:—

(1) The following provisions shall have effect with respect to land improvement charges registered as land charges of Class A:—

(a) if the charge is registered after 31st December 1969, section 11 of this Act shall not apply to it;

(b) if the charge was registered before 1st January 1970, any body corporate which, but for the charge, would have power to advance

money on the security of the estate or interest affected by it shall have that power notwithstanding the charge.

- (2) In this section " land improvement charge " means any charge under the Improvement of Land Act 1864 or under any special improvement Act within the meaning of the Improvement of Land Act 1899”.

## PART IV

### RESTRICTIVE COVENANTS

#### **28 Powers of Lands Tribunal and court in relation to restrictive covenants affecting land**

- (1) In section 84 of the Law of Property Act 1925—

- (a) for the words " The Authority hereinafter defined " in subsection (1), and for the words " the Authority" wherever else they occur, (which now refer to the Lands Tribunal) there shall be substituted the words " the Lands Tribunal "; and
- (b) there shall be made the further amendments provided for by subsections (2) to (9) below;

and accordingly section 84 shall have effect as it is set out in Schedule 3 to this Act with the amendments made by section 52(1) of the Landlord and Tenant Act 1954 and by this section (and the omission of repealed provisions), subject however to any other enactments affecting the operation of section 84 and to subsection (11) below.

- (2) So much of section 84(1)(a) as follows the words " obsolete, or " shall be a separate paragraph (aa) and shall be amended as follows:—

- (a) after the word " that" there shall be inserted the words " in a case falling within subsection (1A) below ";
- (b) for the words " the reasonable user" there shall be substituted the words " some reasonable user "; and
- (c) the words " without securing practical benefits to other persons " shall be omitted ;

and after section 84(1) there shall be inserted as new subsections (1A), (1B) and (1C):

—

“(1A) Subsection (1)(aa) above authorises the discharge or modification of a restriction by reference to its impeding some reasonable user of land in any case in which the Lands Tribunal is satisfied that the restriction, in impeding that user, either—

- (a) does not secure to persons entitled to the benefit of it any practical benefits of substantial value or advantage to them ; or
- (b) is contrary to the public interest;

and that money will be an adequate compensation for the loss or disadvantage (if any) which any such person will suffer from the discharge or modification.

- (1B) In determining whether a case is one falling within subsection (1A) above, and in determining whether (in any such case or otherwise) a restriction ought to be discharged or modified, the Lands Tribunal shall take into account the development plan and any declared or ascertainable pattern for the grant or

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refusal of planning permissions in the relevant areas, as well as the period at which and context in which the restriction was created or imposed and any other material circumstances.

(1C) It is hereby declared that the power conferred by this section to modify a restriction includes power to add such further provisions restricting the user of or the building on the land affected as appear to the Lands Tribunal to be reasonable in view of the relaxation of the existing provisions, and as may be accepted by the applicant; and the Lands Tribunal may accordingly refuse to modify a restriction without some such addition.”

(3) In section 84(1) there shall be omitted the words " (subject or not to the payment by the applicant of compensation to any person suffering loss in consequence of the order) " and the proviso, and after paragraph (c) there shall be inserted the words

“and an order discharging or modifying a restriction under this subsection may direct the applicant to pay to any person entitled to the benefit of the restriction such sum by way of consideration as the Tribunal may think it just to award under one, but not both, of the following heads, that is to say, either—

- (i) a sum to make up for any loss or disadvantage suffered by that person in consequence of the discharge or modification; or
- (ii) a sum to make up for any effect which the restriction had, at the time when it was imposed, in reducing the consideration then received for the land affected by it.”

(4) In section 84(2), in the phrase " is affected " in paragraph (a), and in the phrase " is enforceable " in paragraph (b), there shall in each case be inserted after the word " is " the words " or would in any given event be "; and at the end of section 84(2) there shall be added the words:—

“Neither subsections (7) and (11) of this section nor, unless the contrary is expressed, any later enactment providing for this section not to apply to any restrictions shall affect the operation of this subsection or the operation for purposes of this subsection of any other provisions of this section.”

(5) In section 84(3) in the phrase " any local authority " there shall be inserted after the word " any " the words " government department or ".

(6) After section 84(3) there shall be inserted as a new subsection (3A) :—

“(3A) On an application to the Lands Tribunal under this section the Lands Tribunal shall give any necessary directions as to the persons who are or are not to be admitted (as appearing to be entitled to the benefit of the restriction) to oppose the application, and no appeal shall lie against any such direction; but rules under the Lands Tribunal Act 1949 shall make provision whereby, in cases in which there arises on such an application (whether or not in connection with the admission of persons to oppose) any such question as is referred to in subsection (2)(a) or (b) of this section, the proceedings on the application can and, if the rules so provide, shall be suspended to enable the decision of the court to be obtained on that question by an application under that subsection, or by means of a case stated by the Lands Tribunal, or otherwise, as may be provided by those rules or by rules of court.”

(7) In section 84(8) for the words " when made " there shall be substituted the words " in accordance with the Land Registration Act 1925 "; and in section 50(3) of the



Land Registration Act 1925 (which provides for the alteration of the register where a covenant or agreement is discharged or modified by an order under the Law of Property Act 1925 and in other cases) for the words " or modified " there shall be substituted the words " modified or dealt with ".

(8) In section 84(11) at the end of paragraph (b) there shall be added the words " or of section 19 or 23 of the Civil Aviation Act 1949 ".

(9) In section 84(11) after the word "nor" there shall be inserted the words " subject to subsection (11 A) below " ; and after section 84(11) there shall be inserted as a new subsection (11A):—

“(11A) Subsection (11) of this section—

(a) shall exclude the application of this section to a restriction falling within subsection (11)(a), and not created or imposed in connection with the use of any land as an aerodrome, only so long as the restriction is enforceable by or on behalf of the Crown; and

(b) shall exclude the application of this section to a restriction falling within subsection (11)(b), or created or imposed in connection with the use of any land as an aerodrome, only so long as the restriction is enforceable by or on behalf of the Crown or any public or international authority.”

(10) In section 38(3) of the Requisitioned Land and War Works Act 1945 (under which section 84 of the Law of Property Act 1925 does not apply to a covenant obtained under the Defence Acts, so long as the covenant is enforceable on behalf of the Crown) for the words " any covenant obtained under the Defence Acts " there shall be substituted the words " any restriction created or imposed under the Defence Acts or under section 13 (acquisition of land for oil installations) of the Land Powers (Defence) Act 1958 ", and for the words " the covenant" there shall be substituted the words " the restriction ".

(11) This section applies to restrictions whether subsisting at the time it comes into force or created or imposed thereafter, but—

(a) the coming into force of any provision of this section other than subsection (6) shall not affect proceedings then pending; and

(b) subsection (6) shall not come into force until such date as the Lord Chancellor may appoint by order made by statutory instrument, which shall be laid before Parliament after being made.

## PART V

### SUPPLEMENTARY PROVISIONS

#### 29 Expenses

There shall be paid out of moneys provided by Parliament any expenses of the Treasury or the Chief Land Registrar under this Act and any increase in the sums so payable under any other Act.

#### 30 Interpretation

(1) In this Act—

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" the Act of 1884 " means the Yorkshire Registries Act 1884;

" the Act of 1954 " means the Landlord and Tenant Act 1954;

" county council ", in relation to a Yorkshire deeds registry, means the county council of the riding for which the registry is or was maintained ;

" instrument " includes any document which is, or but for Part II of this Act would be, capable of registration under the Act of 1884, and references to the registration of an instrument include references to the registration of a memorial of an instrument;

" puisne mortgage " means a legal mortgage not protected by a deposit of documents relating to the legal estate affected;

" Yorkshire deeds registry " means a registry maintained under the Act of 1884.

- (2) Any reference in this Act to any enactment shall be construed as a reference thereto as amended by any other enactment, including, except where the context otherwise requires, this Act.

### **31 Short title, commencement and extent**

- (1) This Act may be cited as the Law of Property Act 1969.
- (2) This Act, except section 28(6), shall come into force on 1st January 1970.
- (3) This Act does not extend to Scotland or Northern Ireland.

## SCHEDULES

### SCHEDULE 1

Section 15.

#### CERTAIN PROVISIONS OF PART 2 OF ACT OF 1954 SET OUT AS AMENDED

#### **“24 Continuation of tenancies to which Part II applies and grant of new tenancies.**

- (1) A tenancy to which this Part of this Act applies shall not come to an end unless terminated in accordance with the provisions of this Part of this Act; and, subject to the provisions of section 29 of this Act, the tenant under such a tenancy may apply to the court for a new tenancy—
  - (a) if the landlord has given notice under section 25 of this Act to terminate the tenancy, or
  - (b) if the tenant has made a request for a new tenancy in accordance with section 26 of this Act.
- (2) The last foregoing subsection shall not prevent the coming to an end of a tenancy by notice to quit given by the tenant, by surrender or forfeiture, or by the forfeiture of a superior tenancy, unless—
  - (a) in the case of a notice to quit, the notice was given before the tenant had been in occupation in right of the tenancy for one month ; or
  - (b) in the case of an instrument of surrender, the instrument was executed before, or was executed in pursuance of an agreement made before, the tenant had been in occupation in right of the tenancy for one month.
- (3) Notwithstanding anything in subsection (1) of this section.—
  - (a) where a tenancy to which this Part of this Act applies ceases to be such a tenancy, it shall not come to an end by reason only of the cesser, but if it was granted for a term of years certain and has been continued by subsection (1) of this section then (without prejudice to the termination thereof in accordance with any terms of the tenancy) it may be terminated by not less than three nor more than six months' notice in writing given by the landlord to the tenant;
  - (b) where, at a time when a tenancy is not one to which this Part of this Act applies, the landlord gives notice to quit, the operation of the notice shall not be affected by reason that the tenancy becomes one to which this Part of this Act applies after the giving of the notice.”

#### **“27 Termination by tenant of tenancy for fixed term.**

- (1) Where the tenant under a tenancy to which this Part of this Act applies, being a tenancy granted for a term of years certain, gives to the immediate landlord, not later than three months before the date on which apart from this Act the tenancy would come to an end by effluxion of time, a notice in writing that the tenant does not desire the tenancy to be continued, section 24 of this Act shall not have effect in relation to the tenancy, unless the notice is given before the tenant has been in occupation in right of the tenancy for one month.

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- (2) A tenancy granted for a term of years certain which is continuing by virtue of section 24 of this Act may be brought to an end on any quarter day by not less than three months' notice in writing given by the tenant to the immediate landlord, whether the notice is given after the date on which apart from this Act the tenancy would have come to an end or before that date, but not before the tenant has been in occupation in right of the tenancy for one month.”

**“30 Opposition by landlord to application for new tenancy.**

- (1) The grounds on which a landlord may oppose an application under subsection (1) of section 24 of this Act are such of the following grounds as may be stated in the landlord's notice under section 25 of this Act or, as the case may be, under subsection (6) of section 26 thereof, that is to say :—
- (a) where under the current tenancy the tenant has any obligations as respects the repair and maintenance of the holding, that the tenant ought not to be granted a new tenancy in view of the state of repair of the holding, being a state resulting from the tenant's failure to comply with the said obligations ;
  - (b) that the tenant ought not to be granted a new tenancy in view of his persistent delay in paying rent which has become due ;
  - (c) that the tenant ought not to be granted a new tenancy in view of other substantial breaches by him of his obligations under the current tenancy, or for any other reason connected with the tenant's use or management of the holding ;
  - (d) that the landlord has offered and is willing to provide or secure the provision of alternative accommodation for the tenant, that the terms on which the alternative accommodation is available are reasonable having regard to the terms of the current tenancy and to all other relevant circumstances, and that the accommodation and the time at which it will be available are suitable for the tenant's requirements (including the requirement to preserve goodwill) having regard to the nature and class of his business and to the situation and extent of, and facilities afforded by, the holding ;
  - (e) where the current tenancy was created by the sub-letting of part only of the property comprised in a superior tenancy and the landlord is the owner of an interest in reversion expectant on the termination of that superior tenancy, that the aggregate of the rents reasonably obtainable on separate lettings of the holding and the remainder of that property would be substantially less than the rent reasonably obtainable on a letting of that property as a whole, that on the termination of the current tenancy the landlord requires possession of the holding for the purpose of letting or otherwise disposing of the said property as a whole, and that in view thereof the tenant ought not to be granted a new tenancy ;
  - (f) that on the termination of the current tenancy the landlord intends to demolish or reconstruct the premises comprised in the holding or a substantial part of those premises or to carry out substantial work of construction on the holding or part thereof and that he could not reasonably do so without obtaining possession of the holding ;
  - (g) subject as hereinafter provided, that on the termination of the current tenancy the landlord intends to occupy the holding for the purposes, or partly for the purposes, of a business to be carried on by him therein, or as his residence.
- (2) The landlord shall not be entitled to oppose an application on the ground specified in paragraph (g) of the last foregoing subsection if the interest of the landlord, or an interest

which has merged in that interest and but for the merger would be the interest of the landlord, was purchased or created after the beginning of the period of five years which ends with the termination of the current tenancy, and at all times since the purchase or creation thereof the holding has been comprised in a tenancy or successive tenancies of the description specified in subsection (1) of section 23 of this Act.

- (3) Where the landlord has a controlling interest in a company any business to be carried on by the company shall be treated for the purposes of subsection (1)(g) of this section as a business to be carried on by him.

For the purposes of this subsection, a person has a controlling interest in a company if and only if either—

- (a) he is a member of it and able, without the consent of any other person, to appoint or remove the holders of at least a majority of the directorships ; or  
(b) he holds more than one-half of its equity share capital, there being disregarded any shares held by him in a fiduciary capacity or as nominee for another person;

and in this subsection " company " and " share " have the meanings assigned to them by section 455(1) of the Companies Act 1948 and " equity share capital" the meaning assigned to it by section 154(5) of that Act.”

**“32 Property to be comprised in new tenancy.**

- (1) Subject to the following provisions of this section, an order under section 29 of this Act for the grant of a new tenancy shall be an order for the grant of a new tenancy of the holding; and in the absence of agreement between the landlord and the tenant as to the property which constitutes the holding the court shall in the order designate that property by reference to the circumstances existing at the date of the order.
- (1A) Where the court, by virtue of paragraph (b) of section 31A(1) of this Act, makes an order under section 29 of this Act for the grant of a new tenancy in a case where the tenant is willing to accept a tenancy of part of the holding, the order shall be an order for the grant of a new tenancy of that part only.
- (2) The foregoing provisions of this section shall not apply in a case where the property comprised in the current tenancy includes other property besides the holding and the landlord requires any new tenancy ordered to be granted under section 29 of this Act to be a tenancy of the whole of the property comprised in the current tenancy; but in any such case—
- (a) any order under the said section 29 for the grant of a new tenancy shall be an order for the grant of a new tenancy of the whole of the property comprised in the current tenancy, and  
(b) references in the following provisions of this Part of this Act to the holding shall be construed as references to the whole of that property.
- (3) Where the current tenancy includes rights enjoyed by the tenant in connection with the holding, those rights shall be included in a tenancy ordered to be granted under section 29 of this Act, except as otherwise agreed between the landlord and the tenant or, in default of such agreement, determined by the court.”

**“34 Rent under new tenancy.**

- (1) The rent payable under a tenancy granted by order of the court under this Part of this Act shall be such as may be agreed between the landlord and the tenant or as, in default of such agreement, may be determined by the court to be that at which, having regard to

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the terms of the tenancy (other than those relating to rent), the holding might reasonably be expected to be let in the open market by a willing lessor, there being disregarded—

- (a) any effect on rent of the fact that the tenant has or his predecessors in title have been in occupation of the holding,
  - (b) any goodwill attached to the holding by reason of the carrying on thereof of the business of the tenant (whether by him or by a predecessor of his in that business),
  - (c) any effect on rent of an improvement to which this paragraph applies,
  - (d) in the case of a holding comprising licensed premises, any addition to its value attributable to the licence, if it appears to the court that having regard to the terms of the current tenancy and any other relevant circumstances the benefit of the licence belongs to the tenant.
- (2) Paragraph (c) of the foregoing subsection applies to any improvement carried out by a person who at the time it was carried out was the tenant, but only if it was carried out otherwise than in pursuance of an obligation to his immediate landlord and either it was carried out during the current tenancy or the following conditions are satisfied, that is to say.—
- (a) that it was completed not more than twenty-one years before the application for the new tenancy was made ; and
  - (b) that the holding or any part of it affected by the improvement has at all times since the completion of the improvement been comprised in tenancies of the description specified in section 23(1) of this Act; and
  - (c) that at the termination of each of those tenancies the tenant did not quit.
- (3) Where the rent is determined by the court the court may, if it thinks fit, further determine that the terms of the tenancy shall include such provision for varying the rent as may be specified in the determination.”

**“37 Compensation where under for new tenancy precluded on certain grounds.**

- (1) Where on the making of an application under section 24 of this Act the court is precluded (whether by subsection (1) or subsection (2) of section 31 of this Act) from making an order for the grant of a new tenancy by reason of any of the grounds specified in paragraphs (e), (f) and (g) of subsection (1) of section 30 of this Act and not of any grounds specified in any other paragraph of that subsection, or where no other ground is specified in the landlord's notice under section 25 of this Act or, as the case may be, under section 26(6) thereof, than those specified in the said paragraphs (e), (f) and (g) and either no application under the said section 24 is made or such an application is withdrawn, then, subject to the provisions of this Act, the tenant shall be entitled on quitting the holding to recover from the landlord by way of compensation an amount determined in accordance with the following provisions of this section.
- (2) The said amount shall be as follows, that is to say.—
- (a) where the conditions specified in the next following subsection are satisfied it shall be twice the rateable value of the holding,
  - (b) in any other case it shall be the rateable value of the holding.
- (3) The said conditions are—
- (a) that, during the whole of the fourteen years immediately preceding the termination of the current tenancy, premises being or comprised in the holding

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have been occupied for the purposes of a business carried on by the occupier or for those and other purposes ;

- (b) that, if during those fourteen years there was a change in the occupier of the premises, the person who was the occupier immediately after the change was the successor to the business carried on by the person who was the occupier immediately before the change.

- (4) Where the court is precluded from making an order for the grant of a new tenancy under this Part of this Act in the circumstances mentioned in subsection (1) of this section, the court shall on the application of the tenant certify that fact.

- (5) For the purposes of subsection (2) of this section the rateable value of the holding shall be determined as follows:—

- (a) where in the valuation list in force at the date on which the landlord's notice under section 25 or, as the case may be, subsection (6) of section 26 of this Act is given a value is then shown as the annual value (as hereinafter defined) of the holding, the rateable value of the holding shall be taken to be that value ;
- (b) where no such value is so shown with respect to the holding but such a value or such values is or are so shown with respect to premises comprised in or comprising the holding or part of it, the rateable value of the holding shall be taken to be such value as is found by a proper apportionment or aggregation of the value or values so shown;
- (c) where the rateable value of the holding cannot be ascertained in accordance with the foregoing paragraphs of this subsection, it shall be taken to be the value which, apart from any exemption from assessment to rates, would on a proper assessment be the value to be entered in the said valuation list as the annual value of the holding ;

and any dispute arising, whether in proceedings before the court or otherwise, as to the determination for those purposes of the rateable value of the holding shall be referred to the Commissioners of Inland Revenue for decision by a valuation officer. An appeal shall lie to the Lands Tribunal from any decision of a valuation officer under this subsection, but subject thereto any such decision shall be final.

- (6) The Commissioners of Inland Revenue may by statutory instrument make rules prescribing the procedure in connection with references under this section.

- (7) In this section—

the reference to the termination of the current tenancy is a reference to the date of termination specified in the landlord's notice under section 25 of this Act or, as the case may be, the date specified in the tenant's request for a new tenancy as the date from which the new tenancy is to begin ;

the expression " annual value " means rateable value except that where the rateable value differs from the net annual value the said expression means net annual value ;

the expression "valuation officer" means any officer of the Commissioners of Inland Revenue for the time being authorised by a certificate of the Commissioners to act in relation to a valuation list.”

### **“38 Restriction on agreements excluding provisions of Part II.**

- (1) Any agreement relating to a tenancy to which this Part of this Act applies (whether contained in the instrument creating the tenancy or not) shall be void (except as provided by subsection (4) of this section) in so far as it purports to preclude the tenant

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from making an application or request under this Part of this Act or provides for the termination or the surrender of the tenancy in the event of his making such an application or request or for the imposition of any penalty or disability on the tenant in that event.

(2) Where—

- (a) during the whole of the five years immediately preceding the date on which the tenant under a tenancy to which this Part of this Act applies is to quit the holding, premises being or comprised in the holding have been occupied for the purposes of a business carried on by the occupier or for those and other purposes, and
- (b) if during those five years there was a change in the occupier of the premises, the person who was the occupier immediately after the change was the successor to the business carried on by the person who was the occupier immediately before the change,

any agreement (whether contained in the instrument creating the tenancy or not and whether made before or after the termination of that tenancy) which purports to exclude or reduce compensation under the last foregoing section shall to that extent be void, so however that this subsection shall not affect any agreement as to the amount of any such compensation which is made after the right to compensation has accrued.

(3) In a case not falling within the last foregoing subsection the right to compensation conferred by the last foregoing section may be excluded or modified by agreement.

(4) The court may—

- (a) on the joint application of the persons who will be the landlord and the tenant in relation to a tenancy to be granted for a term of years certain which will be a tenancy to which this Part of this Act applies, authorise an agreement excluding in relation to that tenancy the provisions of sections 24 to 28 of this Act; and
- (b) on the joint application of the persons who are the landlord and the tenant in relation to a tenancy to which this Part of this Act applies, authorise an agreement for the surrender of the tenancy on such date or in such circumstances as may be specified in the agreement and on such terms (if any) as may be so specified;

if the agreement is contained in or endorsed on the instrument creating the tenancy or such other instrument as the court may specify; and an agreement contained in or endorsed on an instrument in pursuance of an authorisation given under this subsection shall be valid notwithstanding anything in the preceding provisions of this section.”

#### **“42 Groups of companies.**

(1) For the purposes of this section two bodies corporate shall be taken to be members of a group if and only if one is a subsidiary of the other or both are subsidiaries of a third body corporate.

In this subsection "subsidiary" has the same meaning as is assigned to it for the purposes of the Companies Act 1948 by section 154 of that Act.

(2) Where a tenancy is held by a member of a group, occupation by another member of the group, and the carrying on of a business by another member of the group, shall be treated for the purposes of section 23 of this Act as equivalent to occupation or the carrying on of a business by the member of the group holding the tenancy; and in relation to a tenancy to which this Part of this Act applies by virtue of the foregoing provisions of this subsection—



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- (a) references (however expressed) in this Part of this Act and in the Ninth Schedule to this Act to the business of or to use occupation or enjoyment by the tenant shall be construed as including references to the business of or to use occupation or enjoyment by the said other member;
  - (b) the reference in paragraph (d) of subsection (1) of section 34 of this Act to the tenant shall be construed as including the said other member ; and
  - (c) an assignment of the tenancy from one member of the group to another shall not be treated as a change in the person of the tenant.
- (3) Where the landlord's interest is held by a member of a group—
- (a) the reference in paragraph (g) of subsection (1) of section 30 of this Act to intended occupation by the landlord for the purposes of a business to be carried on by him shall be construed as including intended occupation by any member of the group for the purposes of a business to be carried on by that member ; and
  - (b) the reference in subsection (2) of that section to the purchase or creation of any interest shall be construed as a reference to a purchase from or creation by a person other than a member of the group.”

**“43 Tenancies excluded from Part II.**

- (3) This Part of this Act does not apply to a tenancy granted for a term certain not exceeding six months unless—
- (a) the tenancy contains provision for renewing the term or for extending it beyond six months from its beginning; or
  - (b) the tenant has been in occupation for a period which, together with any period during which any predecessor in the carrying on of the business carried on by the tenant was in occupation, exceeds twelve months.”

**“44 Meaning of " the landlord "in Part II, and provisions as to mesne landlords, etc.**

- (1) Subject to the next following subsection, in this Part of this Act the expression " the landlord ", in relation to a tenancy (in this section referred to as " the relevant tenancy"), means the person (whether or not he is the immediate landlord) who is the owner of that interest in the property comprised in the relevant tenancy which for the time being fulfils the following conditions, that is to say—
- (a) that it is an interest in reversion expectant (whether immediately or not) on the termination of the relevant tenancy, and
  - (b) that it is either the fee simple or a tenancy which will not come to an end within fourteen months by effluxion of time and, if it is such a tenancy, that no notice has been given by virtue of which it will come to an end within fourteen months or any further time by which it may be continued under section 36(2) or section 64 of this Act,
- and is not itself in reversion expectant (whether immediately or not) on an interest which fulfils those conditions.
- (2) References in this Part of this Act to a notice to quit given by the landlord are references to a notice to quit given by the immediate landlord.
- (3) The provisions of the Sixth Schedule to this Act shall have effect for the application of this Part of this Act to cases where the immediate landlord of the tenant is not the owner of the fee simple in respect of the holding.”

## “SIXTH SCHEDULE

### PROVISIONS FOR PURPOSES OF PART II WHERE IMMEDIATE LANDLORD IS NOT THE FREEHOLDER

#### *Definitions*

- 1 In this Schedule the following expressions have the meanings hereby assigned to them in relation to a tenancy (in this Schedule referred to as "the relevant tenancy"), that is to say:—
- " the competent landlord " means the person who in relation to the tenancy is for the time being the landlord (as defined by section 44 of this Act) for the purposes of Part II of this Act;
  - " mesne landlord " means a tenant whose interest is intermediate between the relevant tenancy and the interest of the competent landlord ; and
  - " superior landlord " means a person (whether the owner of the fee simple or a tenant) whose interest is superior to the interest of the competent landlord.

#### *Power of court to order reversionary tenancies*

- 2 Where the period for which in accordance with the provisions of Part II of this Act it is agreed or determined by the court that a new tenancy should be granted thereunder will extend beyond the date on which the interest of the immediate landlord will come to an end, the power of the court under Part II of this Act to order such a grant shall include power to order the grant of a new tenancy until the expiration of that interest and also to order the grant of such a reversionary tenancy or reversionary tenancies as may be required to secure that the combined effects of those grants will be equivalent to the grant of a tenancy for that period; and the provisions of Part II of this Act shall, subject to the necessary modifications, apply in relation to the grant of a tenancy together with one or more reversionary tenancies as they apply in relation to the grant of one new tenancy.

#### *Acts of competent landlord binding on other landlords*

- 3 (1) Any notice given by the competent landlord under Part II of this Act to terminate the relevant tenancy, and any agreement made between that landlord and the tenant as to the granting, duration, or terms of a future tenancy, being an agreement made for the purposes of the said Part II, shall bind the interest of any mesne landlord notwithstanding that he has not consented to the giving of the notice or was not a party to the agreement.
- (2) The competent landlord shall have power for the purposes of Part II of this Act to give effect to any agreement with the tenant for the grant of a new tenancy beginning with the coming to an end of the relevant tenancy, notwithstanding that the competent landlord will not be the immediate landlord at the commencement of the new tenancy, and any instrument made in the exercise of the power conferred by this sub-paragraph shall have effect as if the mesne landlord had been a party thereto.
- (3) Nothing in the foregoing provisions of this paragraph shall prejudice the provisions of the next following paragraph.

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*Provisions as to consent of mesne landlord to acts of competent landlord*

- 4 (1) If the competent landlord, not being the immediate landlord, gives any such notice or makes any such agreement as is mentioned in sub-paragraph (1) of the last foregoing paragraph without the consent of every mesne landlord, any mesne landlord whose consent has not been given thereto shall be entitled to compensation from the competent landlord for any loss arising in consequence of the giving of the notice or the making of the agreement.
- (2) If the competent landlord applies to any mesne landlord for his consent to such a notice or agreement, that consent shall not be unreasonably withheld, but may be given subject to any conditions which may be reasonable (including conditions as to the modification of the proposed notice or agreement or as to the payment of compensation by the competent landlord).
- (3) Any question arising under this paragraph whether consent has been unreasonably withheld or whether any conditions imposed on the giving of consent are unreasonable shall be determined by the court.

*Consent of superior landlord required for agreements affecting his interest*

- 5 An agreement between the competent landlord and the tenant made for the purposes of Part II of this Act in a case where—
- (a) the competent landlord is himself a tenant, and
  - (b) the agreement would apart from this paragraph operate as respects any period after the coming to an end of the interest of the competent landlord,
- shall not have effect unless every superior landlord who will be the immediate landlord of the tenant during any part of that period is a party to the agreement.

*Withdrawal by competent landlord of notice given by mesne landlord*

- 6 Where the competent landlord has given a notice under section 25 of this Act to terminate the relevant tenancy and, within two months after the giving of the notice, a superior landlord—
- (a) becomes the competent landlord ; and
  - (b) gives to the tenant notice in the prescribed form that he withdraws the notice previously given;
- the notice under section 25 of this Act shall cease to have effect, but without prejudice to the giving of a further notice under that section by the competent landlord.

*Duty to inform superior landlords*

- 7 If the competent landlord's interest in the property comprised in the relevant tenancy is a tenancy which will come or can be brought to an end within sixteenth months (or any further time by which it may be continued under section 36(2) or section 64 of this Act) and he gives to the tenant under the relevant tenancy a notice under section 25 of this Act to terminate the tenancy or is given by him a notice under section 26(3) of this Act:—
- (a) the competent landlord shall forthwith send a copy of the notice to his immediate landlord ; and

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- (b) any superior landlord whose interest in the property is a tenancy shall forthwith send to his immediate landlord any copy which has been sent to him in pursuance of the preceding sub-paragraph or this sub-paragraph.”

SCHEDULE 2

Sections 16 and 17.

YORKSHIRE REGISTRIES: REPEALS

**PART I**

ENACTMENTS RELATING TO REGISTRATION OF DEEDS

| Chapter                           | Short Title   | Extent of Repeal  |
|-----------------------------------|---|---|
| 47 & 48 Vict. c. 54.              | The Yorkshire Registries Act 1884.                          | The whole Act, except section 49.   |
| 48 & 49 Vict. c. 4.               | The Yorkshire Registries Amendment Act 1884.                | The whole Act.  |
| 48 & 49 Vict. c. 26.              | The Yorkshire Registries Amendment Act 1885.                | The whole Act.  |
| 51 & 52 Vict. c. 41.              | The Local Government Act 1888.                              | Section 46(4).  |
| 10 Edw. 7. & 1 Geo. 5. c. cxviii. | The East Riding County Council Act 1910.                    | Section 3.  |
| 7 & 8 Geo. 5. c. v.               | The Yorkshire Registries (North Riding) Amendment Act 1917. | The whole Act.  |
| 15 & 16 Geo. 5. c. 20.            | The Law of Property Act 1925.                               | Section 11.<br><br>In section 94(2) the words " or in a local deeds registry "<br><br>In section 96(2) the words " or in a local deeds register "<br><br>Section 197. |
| 15 & 16 Geo. 5. c. 21.            | The Land Registration Act 1925.                             | Sections 125, 135 and 136.  |
| 16 & 17 Geo. 5. c. 11.            | The Law of Property (Amendment) Act 1926.                   | In the Schedule, in the entry relating to section 96 of the Law of Property Act 1925, the words " or in a local deeds register ".                                     |
| 7 & 8 Geo. 6. c. i.               | The Yorkshire Registries (West Riding) Amendment Act 1944.  | The whole Act.  |

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| Chapter               | Short Title                                  | Extent of Repeal   |
|-----------------------|--|--|
| 5 & 6 Eliz. 2. c. 56. | The Housing Act 1957.                        | In section 15(6) the words from " or of the Yorkshire Registries Act 1884 " onwards. |
| 1965 c. 64.           | The Commons Registration Act 1965.           | In section 13, the words from " and may exclude " onwards.                           |
| 1966 c. xxvi.         | The Yorkshire Registries Amendment Act 1966. | The whole Act.   |
| 1969 c. xxxviii.      | The York Corporation Act 1969.               | Section 24.  |

## PART II

### ENACTMENTS RELATING TO LAND CHARGES

| Chapter                | Short Title                               | Extent of Repeal  |
|------------------------|---|---|
| 15 & 16 Geo. 5. c. 20. | The Law of Property Act 1925.             | In section 97 the words " or of land within the jurisdiction of a local deeds registry ". |
| 15 & 16 Geo. 6. c. 22. | The Land Charges Act 1925.                | Section 10(6).<br>Section 20(12).   |
| 16 & 17 Geo. 5. c. 11. | The Law of Property (Amendment) Act 1926. | In the Schedule, the second entry relating to section 10 of the Land Charges Act 1925.    |
| 1967 c. 75.            | The Matrimonial Homes Act 1967.           | In the Schedule, paragraph 1.   |

## SCHEDULE 3

Section 28.

### LAW OF PROPERTY ACT 1925 SECTION 84 REPRINTED WITH AMENDMENTS

“**84** (1) The Lands Tribunal shall (without prejudice to any concurrent jurisdiction of the court) have power from time to time, on the application of any person interested in any freehold land affected by any restriction arising under covenant or otherwise as to the user thereof or the building thereon, by order wholly or partially to discharge or modify any such restriction on being satisfied—

- (a) that by reason of changes in the character of the property or the neighbourhood or other circumstances of the case which the Lands Tribunal may deem material, the restriction ought to be deemed obsolete ; or
- (aa) that (in a case falling within subsection (1A) below) the continued existence thereof would impede some reasonable user of the land for public or private purposes or, as the case may be, would unless modified so impede such user; or

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- (b) that the persons of full age and capacity for the time being or from time to time entitled to the benefit of the restriction, whether in respect of estates in fee simple or any lesser estates or interests in the property to which the benefit of the restriction is annexed, have agreed, either expressly or by implication, by their acts or omissions, to the same being discharged or modified; or
- (c) that the proposed discharge or modification will not injure the persons entitled to the benefit of the restriction ;

and an order discharging or modifying a restriction under this subsection may direct the applicant to pay to any person entitled to the benefit of the restriction such sum by way of consideration as the Tribunal may think it just to award under one, but not both, of the following heads, that is to say, either—

- (i) a sum to make up for any loss or disadvantage suffered by that person in consequence of the discharge or modification ; or
- (ii) a sum to make up for any effect which the restriction had, at the time when it was imposed, in reducing the consideration then received for the land affected by it.

(1A) Subsection (1)(aa) above authorises the discharge or modification of a restriction by reference to its impeding some reasonable user of land in any case in which the Lands Tribunal is satisfied that the restriction, in impeding that user, either—

- (a) does not secure to persons entitled to the benefit of it any practical benefits of substantial value or advantage to them ; or
- (b) is contrary to the public interest;

and that money will be an adequate compensation for the loss or disadvantage (if any) which any such person will suffer from the discharge or modification.

(1B) In determining whether a case is one falling within subsection (1A) above, and in determining whether (in any such case or otherwise) a restriction ought to be discharged or modified, the Lands Tribunal shall take into account the development plan and any declared or ascertainable pattern for the grant or refusal of planning permissions in the relevant areas, as well as the period at which and context in which the restriction was created or imposed and any other material circumstances.

(1C) It is hereby declared that the power conferred by this section to modify a restriction includes power to add such further provisions restricting the user of or the building on the land affected as appear to the Lands Tribunal to be reasonable in view of the relaxation of the existing provisions, and as may be accepted by the applicant; and the Lands Tribunal may accordingly refuse to modify a restriction without some such addition.

(2) The court shall have power on the application of any person interested—

- (a) to declare whether or not in any particular case any freehold land is, or would in any given event be, affected by a restriction imposed by any instrument; or
- (b) to declare what, upon the true construction of any instrument purporting to impose a restriction, is the nature and extent of the restriction thereby imposed and whether the same is, or would in any given event be, enforceable and if so by whom.

Neither subsections (7) and (11) of this section nor, unless the contrary is expressed, any later enactment providing for this section not to apply to any restrictions shall affect the operation of this subsection or the operation for purposes of this subsection of any other provisions of this section.

- (3) The Lands Tribunal shall, before making any order under this section, direct such enquiries, if any, to be made of any government department or local authority, and such notices, if any, whether by way of advertisement or otherwise, to be given to such of the persons who appear to be entitled to the benefit of the restriction intended to be discharged, modified, or dealt with as, having regard to any enquiries, notices or other proceedings previously made, given or taken, the Lands Tribunal may think fit.
- (3A) On an application to the Lands Tribunal under this section the Lands Tribunal shall give any necessary directions as to the persons who are or are not to be admitted (as appearing to be entitled to the benefit of the restriction) to oppose the application, and no appeal shall lie against any such direction; but rules under the Lands Tribunal Act 1949 shall make provision whereby, in cases in which there arises on such an application (whether or not in connection with the admission of persons to oppose) any such question as is referred to in subsection (2)(a) or (b) of this section, the proceedings on the application can and, if the rules so provide, shall be suspended to enable the decision of the court to be obtained on that question by an application under that subsection, or by means of a case stated by the Lands Tribunal, or otherwise, as may be provided by those rules or by rules of court.
- (5) Any order made under this section shall be binding on all persons, whether ascertained or of full age or capacity or not, then entitled or thereafter capable of becoming entitled to the benefit of any restriction, which is thereby discharged, modified or dealt with, and whether such persons are parties to the proceedings or have been served with notice or not.
- (6) An order may be made under this section notwithstanding that any instrument which is alleged to impose the restriction intended to be discharged, modified, or dealt with, may not have been produced to the court or the Lands Tribunal, and the court or the Lands Tribunal may act on such evidence of that instrument as it may think sufficient.
- (7) This section applies to restrictions whether subsisting at the commencement of this Act or imposed thereafter, but this section does not apply where the restriction was imposed on the occasion of a disposition made gratuitously or for a nominal consideration for public purposes.
- (8) This section applies whether the land affected by the restrictions is registered or not, but, in the case of registered land, the Land Registrar shall give effect on the register to any order under this section in accordance with the Land Registration Act 1925.
- (9) Where any proceedings by action or otherwise are taken to enforce a restrictive covenant, any person against whom the proceedings are taken, may in such proceedings apply to the court for an order giving leave to apply to the Lands Tribunal under this section, and staying the proceedings in the meantime.
- (11) This section does not apply to restrictions imposed by the Commissioners of Works under any statutory power for the protection of any Royal Park or Garden or to restrictions of a like character imposed upon the occasion of any enfranchisement effected before the commencement of this Act in any manor vested in His Majesty in right of the Crown or the Duchy of Lancaster, nor (subject to subsection (11A) below) to restrictions created or imposed—
- (a) for naval, military or air force purposes,
  - (b) for civil aviation purposes under the powers of the Air Navigation Act, 1920 or of section 19 or 23 of the Civil Aviation Act 1949.

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(11A) Subsection (11) of this section—

- (a) shall exclude the application of this section to a restriction falling within subsection (11)(a), and not created or imposed in connection with the use of any land as an aerodrome, only so long as the restriction is enforceable by or on behalf of the Crown ; and
  - (b) shall exclude the application of this section to a restriction falling within subsection (11)(b), or created or imposed in connection with the use of any land as an aerodrome, only so long as the restriction is enforceable by or on behalf of the Crown or any public or international authority.
- (12) Where a term of more than forty years is created in land (whether before or after the commencement of this Act) this section shall, after the expiration of twenty-five years of the term, apply to restrictions affecting such leasehold land in like manner as it would have applied had the land been freehold:

Provided that this subsection shall not apply to mining leases.”