



Leasehold Reform, Housing and Urban Development Act 1993

1993 CHAPTER 28

PART I

LANDLORD AND TENANT

CHAPTER I

COLLECTIVE ENFRANCHISEMENT IN CASE OF TENANTS OF FLATS

Completion of acquisition

34 Conveyance to nominee purchaser

- (1) Any conveyance executed for the purposes of this Chapter, being a conveyance to the nominee purchaser of the freehold of the specified premises or of any other property, shall grant to the nominee purchaser an estate in fee simple absolute in those premises or that property, subject only to such incumbrances as may have been agreed or determined under this Chapter to be incumbrances subject to which that estate should be granted, having regard to the following provisions of this Chapter.
- (2) Any such conveyance shall, where the nominee purchaser is to acquire any leasehold interest in the specified premises or (as the case may be) in the other property to which the conveyance relates, provide for the disposal to the nominee purchaser of any such interest.
- (3) Any conveyance executed for the purposes of this Chapter shall have effect under section 2(1) of the Law of Property Act 1925 (conveyances overreaching certain equitable interests etc.) to overreach any incumbrance capable of being overreached under section 2(1)—
 - (a) as if, where the interest conveyed is settled land for the purposes of the Settled Land Act 1925, the conveyance were made under the powers of that Act, and

Status: This is the original version (as it was originally enacted).

- (b) as if the requirements of section 2(1) as to payment of the capital money allowed any part of the purchase price paid or applied in accordance with section 35 below or Schedule 8 to this Act to be so paid or applied.
- (4) For the purposes of this section “incumbrances” includes—
 - (a) rentcharges, and
 - (b) (subject to subsection (5)) personal liabilities attaching in respect of the ownership of land or an interest in land though not charged on that land or interest.
- (5) Burdens originating in tenure, and burdens in respect of the upkeep or regulation for the benefit of any locality of any land, building, structure, works, ways or watercourse shall not be treated as incumbrances for the purposes of this section; but any conveyance executed for the purposes of this Chapter shall be made subject to any such burdens.
- (6) A conveyance executed for the purposes of this Chapter shall not be made subject to any incumbrance capable of being overreached by the conveyance, but shall be made subject (where they are not capable of being overreached) to—
 - (a) rentcharges redeemable under sections 8 to 10 of the Rentcharges Act 1977, and
 - (b) those falling within paragraphs (c) and (d) of section 2(3) of that Act (estate rentcharges and rentcharges imposed under certain enactments),except as otherwise provided by subsections (7) and (8) below.
- (7) Where any land is to be conveyed to the nominee purchaser by a conveyance executed for the purposes of this Chapter, subsection (6) shall not preclude the person who owns the freehold interest in the land from releasing, or procuring the release of, the land from any rentcharge.
- (8) The conveyance of any such land (“the relevant land”) may, with the agreement of the nominee purchaser (which shall not be unreasonably withheld), provide in accordance with section 190(1) of the Law of Property Act 1925 (charging of rentcharges on land without rent owner’s consent) that a rentcharge—
 - (a) shall be charged exclusively on other land affected by it in exoneration of the relevant land, or
 - (b) shall be apportioned between other land affected by it and the relevant land.
- (9) Except to the extent that any departure is agreed to by the nominee purchaser and the person whose interest is to be conveyed, any conveyance executed for the purposes of this Chapter shall—
 - (a) as respects the conveyance of any freehold interest, conform with the provisions of Schedule 7, and
 - (b) as respects the conveyance of any leasehold interest, conform with the provisions of paragraph 2 of that Schedule (any reference in that paragraph to the freeholder being read as a reference to the person whose leasehold interest is to be conveyed).
- (10) Any such conveyance shall in addition contain a statement that it is a conveyance executed for the purposes of this Chapter; and any such statement shall comply with such requirements as may be prescribed by rules made in pursuance of section 144 of the Land Registration Act 1925 (power to make general rules).

35 Discharge of existing mortgages on transfer to nominee purchaser

- (1) Subject to the provisions of Schedule 8, where any interest is acquired by the nominee purchaser in pursuance of this Chapter, the conveyance by virtue of which it is so acquired shall, as regards any mortgage to which this section applies, be effective by virtue of this section—
 - (a) to discharge the interest from the mortgage, and from the operation of any order made by a court for the enforcement of the mortgage, and
 - (b) to extinguish any term of years created for the purposes of the mortgage, and shall do so without the persons entitled to or interested in the mortgage or in any such order or term of years becoming parties to or executing the conveyance.
- (2) Subject to subsections (3) and (4), this section applies to any mortgage of the interest so acquired (however created or arising) which—
 - (a) is a mortgage to secure the payment of money or the performance of any other obligation by the person from whom the interest is so acquired or any other person; and
 - (b) is not a mortgage which would be overreached apart from this section.
- (3) This section shall not apply to any such mortgage if it has been agreed between the nominee purchaser and the reversioner or (as the case may be) any other relevant landlord that the interest in question should be acquired subject to the mortgage.
- (4) In this section and Schedule 8 “mortgage” includes a charge or lien; but neither this section nor that Schedule applies to a rentcharge.

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

- (1) In connection with the acquisition by him of the freehold of the specified premises, the nominee purchaser shall grant to the person from whom the freehold is acquired such leases of flats or other units contained in those premises as are required to be so granted by virtue of Part II or III of Schedule 9.
- (2) Any such lease shall be granted so as to take effect immediately after the acquisition by the nominee purchaser of the freehold of the specified premises.
- (3) Where any flat or other unit demised under any such lease (“the relevant lease”) is at the time of that acquisition subject to any existing lease, the relevant lease shall take effect as a lease of the freehold reversion in respect of the flat or other unit.
- (4) Part IV of Schedule 9 has effect with respect to the terms of a lease granted in pursuance of Part II or III of that Schedule.

37 Acquisition of interests from local authorities etc

Schedule 10 to this Act (which makes provision with respect to the acquisition of interests from local authorities etc. in pursuance of this Chapter) shall have effect.