



Leasehold Reform, Housing and Urban Development Act 1993

1993 CHAPTER 28

PART I

LANDLORD AND TENANT

CHAPTER III

ENFRANCHISEMENT UNDER LEASEHOLD REFORM ACT 1967

Extension of right to enfranchise

63 Extension of right to enfranchise to houses whose value or rent exceeds applicable limit

After section 1 of the Leasehold Reform Act 1967 there shall be inserted—

“1A Right to enfranchisement only in case of houses whose value or rent exceeds limit under s.1 or 4

- (1) Where subsection (1) of section 1 above would apply in the case of the tenant of a house but for the fact that the applicable financial limit specified in subsection (1)(a)(i) or (ii) or (as the case may be) subsection (5) or (6) of that section is exceeded, this Part of this Act shall have effect to confer on the tenant the same right to acquire the freehold of the house and premises as would be conferred by subsection (1) of that section if that limit were not exceeded.
- (2) Where a tenancy of any property is not a tenancy at a low rent in accordance with section 4(1) below but is a tenancy falling within section 4A(1) below, the tenancy shall nevertheless be treated as a tenancy at a low rent for the purposes

of this Part of this Act so far as it has effect for conferring on any person a right to acquire the freehold of a house and premises.”

64 Tenancies terminable after death or marriage

- (1) The following section shall be inserted in the Leasehold Reform Act 1967 after the section 1A inserted by section 63 above—

“1B Right to enfranchise-ment only in case of certain tenancies terminable after death or marriage

Where a tenancy granted so as to become terminable by notice after a death or marriage—

- (a) is (apart from this section) a long tenancy in accordance with section 3(1) below, but
- (b) was granted before 18th April 1980 or in pursuance of a contract entered into before that date,

then (notwithstanding section 3(1)) the tenancy shall be a long tenancy for the purposes of this Part of this Act only so far as this Part has effect for conferring on any person a right to acquire the freehold of a house and premises.”

- (2) In section 3(1) of that Act (meaning of “long tenancy”)—

- (a) after “and includes” there shall be inserted “both a tenancy taking effect under section 149(6) of the Law of Property Act 1925 (leases terminable after a death or marriage) and”; and
- (b) in the proviso (which prevents certain categories of tenancies terminable after death or marriage being long tenancies), for the words from “if either” onwards there shall be substituted “if—
 - (a) the notice is capable of being given at any time after the death or marriage of the tenant;
 - (b) the length of the notice is not more than three months; and
 - (c) the terms of the tenancy preclude both—
 - (i) its assignment otherwise than by virtue of section 92 of the Housing Act 1985 (assignments by way of exchange), and
 - (ii) the sub-letting of the whole of the premises comprised in it.”

65 Additional “low rent” test

After section 4 of the Leasehold Reform Act 1967 there shall be inserted—

“4A Alternative rent limits for purposes of section 1A(2)

- (1) For the purposes of section 1A(2) above a tenancy of any property falls within this subsection if either no rent was payable under it in respect of the property during the initial year or the aggregate amount of rent so payable during that year did not exceed the following amount, namely—
- (a) where the tenancy was entered into before 1st April 1963, two-thirds of the letting value of the property (on the same terms) on the date of the commencement of the tenancy;

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

- (b) where—
- (i) the tenancy was entered into either on or after 1st April 1963 but before 1st April 1990, or on or after 1st April 1990 in pursuance of a contract made before that date, and
 - (ii) the property had a rateable value at the date of the commencement of the tenancy or else at any time before 1st April 1990,
- two-thirds of the rateable value of the property on the relevant date; or
- (c) in any other case, £1,000 if the property is in Greater London or £250 if elsewhere.

- (2) For the purposes of subsection (1) above—
- (a) “the initial year”, in relation to any tenancy, means the period of one year beginning with the date of the commencement of the tenancy;
 - (b) “the relevant date” means the date of the commencement of the tenancy or, if the property did not have a rateable value on that date, the date on which it first had a rateable value; and
 - (c) paragraphs (b) and (c) of section 4(1) above shall apply as they apply for the purposes of section 4(1);

and it is hereby declared that in subsection (1) above the reference to the letting value of any property is to be construed in like manner as the reference in similar terms which appears in the proviso to section 4(1) above.

- (3) Section 1(7) above applies to any amount referred to in subsection (1)(c) above as it applies to the amount referred to in subsection (1)(a)(ii) of that section.”

66 Price payable by tenant on enfranchisement by virtue of section 63 or 64

- (1) In section 9 of the Leasehold Reform Act 1967 (purchase price and costs of enfranchisement, etc.), after subsection (1B) there shall be inserted—

“(1C) Notwithstanding subsection (1) above, the price payable for a house and premises where the right to acquire the freehold arises by virtue of any one or more of the provisions of sections 1A and 1B above shall be determined in accordance with subsection (1A) above; but in any such case—

- (a) if in determining the price so payable there falls to be taken into account any marriage value arising by virtue of the coalescence of the freehold and leasehold interests, the share of the marriage value to which the tenant is to be regarded as being entitled shall not exceed one-half of it; and
- (b) section 9A below has effect for determining whether any additional amount is payable by way of compensation under that section;

and in a case where the provision (or one of the provisions) by virtue of which the right to acquire the freehold arises is section 1A(1) above, subsection (1A) above shall apply with the omission of the assumption set out in paragraph (b) of that subsection.”

- (2) Section 9 of that Act, as amended by this section and with the omission of repealed provisions, is set out in Schedule 15 to this Act.
- (3) After section 9 of that Act there shall be inserted—

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

“9A Compensation payable in cases where right to enfranchisement arises by virtue of section 1A or 1B

- (1) If, in a case where the right to acquire the freehold of a house and premises arises by virtue of any one or more of the provisions of sections 1A and 1B above, the landlord will suffer any loss or damage to which this section applies, there shall be payable to him such amount as is reasonable to compensate him for that loss or damage.
- (2) This section applies to—
 - (a) any diminution in value of any interest of the landlord in other property resulting from the acquisition of his interest in the house and premises; and
 - (b) any other loss or damage which results therefrom to the extent that it is referable to his ownership of any interest in other property.
- (3) Without prejudice to the generality of paragraph (b) of subsection (2) above, the kinds of loss falling within that paragraph include loss of development value in relation to the house and premises to the extent that it is referable as mentioned in that paragraph.
- (4) In subsection (3) above “development value”, in relation to the house and premises, means any increase in the value of the landlord’s interest in the house and premises which is attributable to the possibility of demolishing, reconstructing, or carrying out substantial works of construction on, the whole or a substantial part of the house and premises.
- (5) In relation to any case falling within subsection (1) above—
 - (a) any reference (however expressed)—
 - (i) in section 8 or 9(3) or (5) above, or
 - (ii) in any of the following provisions of this Act,

to the price payable under section 9 above shall be construed as including a reference to any amount payable to the landlord under this section; and
 - (b) for the purpose of determining any such separate price as is mentioned in paragraph 7(1)(b) of Schedule 1 to this Act, this section shall accordingly apply (with any necessary modifications) to each of the superior interests in question.”

Exceptions to right to enfranchise

67 Exclusion of right to enfranchise in case of houses let by charitable housing trusts

- (1) Section 1 of the Leasehold Reform Act 1967 (tenants entitled to enfranchisement or extension) shall be amended as follows.
- (2) In subsection (3) (excepted cases) there shall be added at the end—

“or, in the case of any right to which subsection (3A) below applies, at any time when the tenant’s immediate landlord is a charitable housing trust and the house

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

forms part of the housing accommodation provided by the trust in the pursuit of its charitable purposes.”

(3) After subsection (3) there shall be inserted—

“(3A) For the purposes of subsection (3) above this subsection applies as follows—

- (a) where the tenancy was created after the commencement of Chapter III of Part I of the Leasehold Reform, Housing and Urban Development Act 1993, this subsection applies to any right to acquire the freehold of the house and premises; but
- (b) where the tenancy was created before that commencement, this subsection applies only to any such right exercisable by virtue of any one or more of the provisions of sections 1A and 1B below;

and in that subsection “charitable housing trust” means a housing trust within the meaning of the Housing Act 1985 which is a charity within the meaning of the Charities Act 1993.”

68 Exclusion of right in case of property transferred for public benefit etc

After section 32 of the Leasehold Reform Act 1967 there shall be inserted—

“32A Property transferred for public benefit etc

- (1) A notice of a person’s desire to have the freehold of a house and premises under this Part shall be of no effect if at the relevant time the whole or any part of the house and premises is qualifying property and either—
 - (a) the tenancy was created after the commencement of Chapter III of Part I of the Leasehold Reform, Housing and Urban Development Act 1993; or
 - (b) (where the tenancy was created before that commencement) the tenant would not be entitled to have the freehold if either or both of sections 1A and 1B above were not in force.
- (2) For the purposes of this section the whole or any part of the house and premises is qualifying property if—
 - (a) it has been designated under section 31(1)(b), (c) or (d) of the Inheritance Tax Act 1984 (designation and undertakings relating to conditionally exempt transfers), whether with or without any other property, and no chargeable event has subsequently occurred with respect to it; or
 - (b) an application to the Board for it to be so designated is pending; or
 - (c) it is the property of a body not established or conducted for profit and a direction has been given in relation to it under section 26 of that Act (gifts for public benefit), whether with or without any other property; or
 - (d) an application to the Board for a direction to be so given in relation to it is pending.
- (3) For the purposes of subsection (2) above an application is pending as from the time when it is made to the Board until such time as it is either granted or refused by the Board or withdrawn by the applicant; and for this purpose an application shall not be regarded as made unless and until the applicant has

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

submitted to the Board all such information in support of the application as is required by the Board.

- (4) A notice of a person's desire to have the freehold of a house and premises under this Part shall cease to have effect if—
- (a) before completion of the conveyance in pursuance of the tenant's notice, the whole or any part of the house and premises becomes qualifying property; and
 - (b) the condition set out in subsection (1)(a) or (as the case may be) subsection (1)(b) above is satisfied.
- (5) Where a tenant's notice ceases to have effect by virtue of subsection (4) above—
- (a) section 9(4) above shall not apply to require the tenant to make any payment to the landlord in respect of costs incurred by reason of the notice; and
 - (b) the person who applied or is applying for designation or a direction shall be liable to the tenant for all reasonable costs incurred by the tenant in connection with his claim to acquire the freehold of the house and premises.
- (6) Where it is claimed that subsection (1) or (4) above applies in relation to a tenant's notice, the person making the claim shall, at the time of making it, furnish the tenant with evidence in support of it; and if he fails to do so he shall be liable for any costs which are reasonably incurred by the tenant in consequence of the failure.
- (7) In subsection (2) above—
- (a) paragraphs (a) and (b) apply to designation under section 34(1)(a), (b) or (c) of the Finance Act 1975 or section 77(1)(b), (c) or (d) of the Finance Act 1976 as they apply to designation under section 31(1)(b), (c) or (d) of the Inheritance Tax Act 1984; and
 - (b) paragraphs (c) and (d) apply to a direction under paragraph 13 of Schedule 6 to the Finance Act 1975 as they apply to a direction under section 26 of that Act of 1984.
- (8) In this section—
- “the Board” means the Commissioners of Inland Revenue;
- “chargeable event” means—
- (a) any event which in accordance with any provision of Chapter II of Part II of the Inheritance Tax Act 1984 (exempt transfers) is a chargeable event, including any such provision as applied by section 78(3) of that Act (conditionally exempt occasions); or
 - (b) any event which would have been a chargeable event in the circumstances mentioned in section 79(3) of that Act (exemption from ten-yearly charge).”