



Housing Act 1996

1996 CHAPTER 52

PART III

LANDLORD AND TENANT

CHAPTER III

LEASEHOLD REFORM

Scope of rights

105 Low rent test: nil rateable values

- (1) In section 4(1) of the Leasehold Reform Act 1967 (meaning of “low rent”) —
- (a) in paragraph (i) (cases where rent limit of two-thirds of rateable value on later of appropriate day and first day of term applies), for the words from “or (where” to “that date” there shall be substituted “, or on or after 1st April 1990 in pursuance of a contract made before that date, and the property had a rateable value other than nil at the date of the commencement of the tenancy or else at any time before 1st April 1990,”,
 - (b) in paragraph (ii) (other cases), for the words from “is entered” to “1990),” there shall be substituted “does not fall within paragraph (i) above,”, and
 - (c) in paragraph (a) (definition of “appropriate day” by reference to section 25(3) of the Rent Act 1977), there shall be inserted at the end “if the reference in paragraph (a) of that provision to a rateable value were to a rateable value other than nil”.
- (2) In section 4A of the Leasehold Reform Act 1967 (alternative rent limits for the purposes of section 1A(2) of that Act)—
- (a) in subsection (1)(b) (cases where rent limit of two-thirds of rateable value on the relevant date applies), for sub-paragraph (ii) there shall be substituted—

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- “(ii) the property had a rateable value other than nil at the date of commencement of the tenancy or else at any time before 1st April 1990,” and
- (b) in subsection (2), for paragraph (b) there shall be substituted—
- “(b) “the relevant date” means the date of the commencement of the tenancy or, if the property did not have a rateable value, or had a rateable value of nil, on that date, the date on which it first had a rateable value other than nil;”
- (3) In section 8 of the Leasehold Reform, Housing and Urban Development Act 1993 (leases at a low rent)—
- (a) in subsection (1)(b) (cases where rent limit of two-thirds of rateable value on the appropriate date applies), for sub-paragraph (ii) there shall be substituted—
- “(ii) the flat had a rateable value other than nil at the date of the commencement of the lease or else at any time before 1st April 1990,” and
- (b) in subsection (2), for paragraph (b) there shall be substituted—
- “(b) “the appropriate date” means the date of commencement of the lease or, if the flat in question did not have a rateable value, or had a rateable value of nil, on that date, the date on which the flat first had a rateable value other than nil;”

106 Low rent test: extension of rights

Schedule 9 (which makes provision for conferring an additional right to enfranchisement in relation to tenancies which fail the low rent test and for introducing an alternative to the low rent test in the case of the right to collective enfranchisement and the right to a new lease) shall have effect.

107 Collective enfranchisement: multiple freeholders

- (1) In section 3 of the Leasehold Reform, Housing and Urban Development Act 1993 (premises in respect of which the right to collective enfranchisement is exercisable), in subsection (1)(a), the words “and the freehold of the whole of the building or of that part of the building is owned by the same person” shall be omitted.
- (2) In section 4 of that Act (premises excluded from the right to collective enfranchisement), after subsection (3) there shall be inserted—
- “(3A) Where different persons own the freehold of different parts of premises within subsection (1) of section 3, this Chapter does not apply to the premises if any of those parts is a self-contained part of a building for the purposes of that section.”
- (3) In section 1(3) of that Act (additional property which may be acquired by tenants exercising the right to collective enfranchisement), the words “the freehold of it is owned by the person who owns the freehold of the relevant premises and” shall be omitted.
- (4) Schedule 10 (amendments consequential on this section) shall have effect.

Valuation

108 Collective enfranchisement: removal of need for professional valuation of interests to be acquired

In section 13 of the Leasehold Reform, Housing and Urban Development Act 1993 (notice by qualifying tenants of claim to exercise right to collective enfranchisement) subsection (6) (tenants to obtain professional valuation of interests proposed to be acquired before giving notice) shall cease to have effect.

109 Collective enfranchisement: valuation principles

(1) Schedule 6 to the Leasehold Reform, Housing and Urban Development Act 1993 (purchase price payable by nominee purchaser) shall be amended as follows.

(2) In paragraph 3(1) (freeholder's interest to be valued on the basis that neither the nominee purchaser nor any participating tenant is in the market) for "neither the nominee purchaser nor any participating tenant" there shall be substituted "no person who falls within sub-paragraph (1A)".

(3) After paragraph 3(1) there shall be inserted—

“(1A) A person falls within this sub-paragraph if he is—

- (a) the nominee purchaser, or
- (b) a tenant of premises contained in the specified premises, or
- (c) an owner of an interest which the nominee purchaser is to acquire in pursuance of section 2(1)(b).”

(4) In paragraph 7 (value of intermediate leasehold interests) after sub-paragraph (1) there shall be inserted—

“(1A) In its application in accordance with sub-paragraph (1), paragraph 3(1A) shall have effect with the addition after paragraph (a) of—

- “(aa) an owner of a freehold interest in the specified premises,
or””

(5) In paragraph 11 (value of other interests) after sub-paragraph (3) there shall be inserted—

“(4) In its application in accordance with sub-paragraph (2) above, paragraph 3(1A) shall have effect with the addition after paragraph (a) of—

- “(aa) an owner of a freehold interest in the specified premises,
or””

110 New leases: valuation principles

(1) Schedule 13 to the Leasehold Reform, Housing and Urban Development Act 1993 (premium and other amounts payable by tenant on grant of new lease) shall be amended as mentioned in subsections (2) to (4) below.

(2) In paragraph 3(2) (landlord's interest to be valued on the basis that the tenant is not buying or seeking to buy) for "the tenant not" there shall be substituted "neither the tenant nor any owner of an intermediate leasehold interest".

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(3) In paragraph 4(3) (calculation of marriage value) for paragraph (a) (value of tenant’s interest) there shall be substituted—

- “(a) the value of the interest of the tenant under his existing lease shall be determined in accordance with paragraph 4A;
- (aa) the value of the interest to be held by the tenant under the new lease shall be determined in accordance with paragraph 4B;”, and, in paragraph (b), for “that sub-paragraph” there shall be substituted “sub-paragraph (2)”.

(4) After paragraph 4 there shall be inserted—

“4A (1) Subject to the provisions of this paragraph, the value of the interest of the tenant under the existing lease is the amount which at the valuation date that interest might be expected to realise if sold on the open market by a willing seller (with neither the landlord nor any owner of an intermediate leasehold interest buying or seeking to buy) on the following assumptions—

- (a) on the assumption that the vendor is selling such interest as is held by the tenant subject to any interest inferior to the interest of the tenant;
- (b) on the assumption that Chapter I and this Chapter confer no right to acquire any interest in any premises containing the tenant’s flat or to acquire any new lease;
- (c) on the assumption that any increase in the value of the flat which is attributable to an improvement carried out at his own expense by the tenant or by any predecessor in title is to be disregarded; and
- (d) on the assumption that (subject to paragraph (b)) the vendor is selling with and subject to the rights and burdens with and subject to which any interest inferior to the existing lease of the tenant has effect.

(2) It is hereby declared that the fact that sub-paragraph (1) requires assumptions to be made in relation to particular matters does not preclude the making of assumptions as to other matters where those assumptions are appropriate for determining the amount which at the valuation date the interest of the tenant under his existing lease might be expected to realise if sold as mentioned in that sub-paragraph.

(3) In determining any such amount there shall be made such deduction (if any) in respect of any defect in title as on a sale of that interest on the open market might be expected to be allowed between a willing seller and a willing buyer.

(4) Subject to sub-paragraph (5), the value of the interest of the tenant under his existing lease shall not be increased by reason of—

- (a) any transaction which—
 - (i) is entered into after 19th January 1996, and
 - (ii) involves the creation or transfer of an interest inferior to the tenant’s existing lease; or
- (b) any alteration after that date of the terms on which any such inferior interest is held.

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- (5) Sub-paragraph (4) shall not apply to any transaction which falls within paragraph (a) of that sub-paragraph if—
- (a) the transaction is entered into in pursuance of a contract entered into on or before the date mentioned in that paragraph; and
 - (b) the amount of the premium payable by the tenant in respect of the grant of the new lease was determined on or before that date either by agreement or by a leasehold valuation tribunal under this Chapter.
- 4B (1) Subject to the provisions of this paragraph, the value of the interest to be held by the tenant under the new lease is the amount which at the valuation date that interest (assuming it to have been granted to him at that date) might be expected to realise if sold on the open market by a willing seller (with the owner of any interest superior to the interest of the tenant not buying or seeking to buy) on the following assumptions—
- (a) on the assumption that the vendor is selling such interest as is to be held by the tenant under the new lease subject to the inferior interests to which the tenant's existing lease is subject at the valuation date;
 - (b) on the assumption that Chapter I and this Chapter confer no right to acquire any interest in any premises containing the tenant's flat or to acquire any new lease;
 - (c) on the assumption that there is to be disregarded any increase in the value of the flat which would fall to be disregarded under paragraph (c) of sub-paragraph (1) of paragraph 4A in valuing in accordance with that sub-paragraph the interest of the tenant under his existing lease; and
 - (d) on the assumption that (subject to paragraph (b)) the vendor is selling with and subject to the rights and burdens with and subject to which any interest inferior to the tenant's existing lease at the valuation date then has effect.
- (2) It is hereby declared that the fact that sub-paragraph (1) requires assumptions to be made in relation to particular matters does not preclude the making of assumptions as to other matters where those assumptions are appropriate for determining the amount which at the valuation date the interest to be held by the tenant under the new lease might be expected to realise if sold as mentioned in that sub-paragraph.
- (3) In determining any such amount there shall be made such deduction (if any) in respect of any defect in title as on a sale of that interest on the open market might be expected to be allowed between a willing seller and a willing buyer.
- (4) Subject to sub-paragraph (5), the value of the interest to be held by the tenant under the new lease shall not be decreased by reason of—
- (a) any transaction which—
 - (i) is entered into after 19th January 1996, and
 - (ii) involves the creation or transfer of an interest inferior to the tenant's existing lease; or
 - (b) any alteration after that date of the terms on which any such inferior interest is held.

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- (5) Sub-paragraph (4) shall not apply to any transaction which falls within paragraph (a) of that sub-paragraph if—
- (a) the transaction is entered into in pursuance of a contract entered into on or before the date mentioned in that paragraph; and
 - (b) the amount of the premium payable by the tenant in respect of the grant of the new lease was determined on or before that date either by agreement or by a leasehold valuation tribunal under this Chapter.”
- (5) This section applies in relation to any claim made after 19th January 1996 by the giving of notice under section 42 of the Act of 1993 unless the amount of the premium payable in pursuance of the claim has been determined, either by agreement or by a leasehold valuation tribunal under Chapter II of the Act of 1993, before the day on which this Act is passed.

Trusts

111 Satisfaction of residence condition: collective enfranchisement

- (1) In section 6 of the Leasehold Reform, Housing and Urban Development Act 1993 (which provides when a qualifying tenant of a flat satisfies the residence condition) for subsection (4) there shall be substituted—
- “(4) Subsection (1) shall not apply where a lease is vested in trustees (other than a sole tenant for life within the meaning of the Settled Land Act 1925), and, in that case, a qualifying tenant of a flat shall, for the purposes of this Chapter, be treated as satisfying the residence condition at any time when the condition in subsection (5) is satisfied with respect to an individual having an interest under the trust (whether or not also a trustee).
- (5) That condition is that the individual has occupied the flat as his only or principal home—
- (a) for the last twelve months, or
 - (b) for periods amounting to three years in the last ten years, whether or not he has used the flat also for other purposes.
- (6) For the purposes of subsection (5)—
- (a) any reference to the flat includes a reference to part of it; and
 - (b) it is immaterial whether at any particular time the individual’s occupation was in right of the lease by virtue of which the trustees are a qualifying tenant or in right of some other lease or otherwise.”
- (2) In section 13(3)(e)(iii) of that Act (particulars of satisfaction of residence condition to be included in the notice by which qualifying tenants exercise right to collective enfranchisement)—
- (a) after “which he” there shall be inserted “, or, where the tenant’s lease is vested as mentioned in section 6(4), the individual concerned,”; and
 - (b) for “his”, in the first place where it occurs, there shall be substituted “the”.

112 Satisfaction of residence condition: new leases

- (1) Section 39 of the Leasehold Reform, Housing and Urban Development Act 1993 (right of qualifying tenant of flat to acquire new lease) shall be amended as mentioned in subsections (2) to (4) below.
- (2) In subsection (2) (circumstances in which the right conferred) for paragraph (b) (residence condition) there shall be substituted—
 - “(b) the condition specified in subsection (2A) or, as the case may be, (2B) is satisfied.
 - (2A) Where the lease by virtue of which the tenant is a qualifying tenant is vested in trustees (other than a sole tenant for life within the meaning of the Settled Land Act 1925), the condition is that an individual having an interest under the trust (whether or not also a trustee) has occupied the flat as his only or principal home—
 - (a) for the last three years, or
 - (b) for periods amounting to three years in the last ten years, whether or not he has used it also for other purposes.
 - (2B) Where the lease by virtue of which the tenant is a qualifying tenant is not vested as mentioned in subsection (2A), the condition is that the tenant has occupied the flat as his only or principal home—
 - (a) for the last three years, or
 - (b) for periods amounting to three years in the last ten years, whether or not he has used it also for other purposes.”
- (3) After subsection (4) there shall be inserted—
 - “(4A) For the purposes of subsection (2A)—
 - (a) any reference to the flat includes a reference to part of it; and
 - (b) it is immaterial whether at any particular time the individual’s occupation was in right of the lease by virtue of which the trustees are a qualifying tenant or in right of some other lease or otherwise.”
- (4) In subsection (5), for “(2)(b)” there shall be substituted “(2B)”.
- (5) In section 42 of that Act (notice by qualifying tenant of claim to exercise right) for subsection (4) there shall be substituted—
 - “(4) If the tenant’s lease is vested as mentioned in section 39(2A), the reference to the tenant in subsection (3)(b)(iv) shall be read as a reference to any individual with respect to whom it is claimed the condition in section 39(2A) is satisfied.”

113 Powers of trustees

After section 93 of the Leasehold Reform, Housing and Urban Development Act 1993 there shall be inserted—

“93A Powers of trustees in relation to rights under Chapters I and II

- (1) Where trustees are a qualifying tenant of a flat for the purposes of Chapter I or II, their powers under the instrument regulating the trusts shall include power to participate in the exercise of the right to collective enfranchisement under

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Chapter I or, as the case may be, to exercise the right to a new lease under Chapter II.

- (2) Subsection (1) shall not apply where the instrument regulating the trusts—
- (a) is made on or after the day on which section 113 of the Housing Act 1996 comes into force, and
 - (b) contains an explicit direction to the contrary.
- (3) The powers conferred by subsection (1) shall be exercisable with the like consent or on the like direction (if any) as may be required for the exercise of the trustees' powers (or ordinary powers) of investment.
- (4) The following purposes, namely—
- (a) those authorised for the application of capital money by section 73 of the Settled Land Act 1925, or by that section as applied by section 28 of the Law of Property Act 1925 in relation to trusts for sale, and
 - (b) those authorised by section 71 of the Settled Land Act 1925, or by that section as so applied, as purposes for which moneys may be raised by mortgage,

shall include the payment of any expenses incurred by a tenant for life or statutory owners or by trustees for sale, as the case may be, in or in connection with participation in the exercise of the right to collective enfranchisement under Chapter I or in or in connection with the exercise of the right to a new lease under Chapter II.”

Miscellaneous

114 Minor amendment of section 1(1)(a) of Leasehold Reform Act 1967

In section 1 of the Leasehold Reform Act 1967 (tenants entitled to enfranchisement or extension), in subsection (1)(a)—

- (a) in sub-paragraph (i), for the words from “or (where” to “that date,” there shall be substituted “, or on or after 1st April 1990 in pursuance of a contract made before that date, and the house and premises had a rateable value at the date of commencement of the tenancy or else at any time before 1st April 1990,” and
- (b) in sub-paragraph (ii), for the words from “is entered” to “1990,” there shall be substituted “does not fall within sub-paragraph (i) above,”.

115 Power for leasehold valuation tribunal to determine amount of costs payable under Leasehold Reform Act 1967

In section 21(1) of the Leasehold Reform Act 1967 (matters to be determined by leasehold valuation tribunal), after paragraph (b) there shall be inserted—

“(ba) the amount of any costs payable under section 9(4) or 14(2);”

116 Compensation for postponement of termination in connection with ineffective claims

Schedule 11 (which makes, in relation to claims to enfranchisement or an extended lease under Part I of the Leasehold Reform Act 1967 and claims to collective enfranchisement or a new lease under Chapter I or II of Part I of the Leasehold

Reform, Housing and Urban Development Act 1993, provision for compensation of the landlord where the claim has prolonged an existing tenancy, but is ineffective) shall have effect.

117 Priority of interests on grant of new lease

After section 58 of the Leasehold Reform, Housing and Urban Development Act 1993 there shall be inserted—

“58A Priority of interests on grant of new lease

- (1) Where a lease granted under section 56 takes effect subject to two or more interests to which the existing lease was subject immediately before its surrender, the interests shall have the same priority in relation to one another on the grant of the new lease as they had immediately before the surrender of the existing lease.
- (2) Subsection (1) is subject to agreement to the contrary.
- (3) Where a person who is entitled on the grant of a lease under section 56 to rights of occupation in relation to the flat comprised in that lease was entitled immediately before the surrender of the existing lease to rights of occupation in relation to the flat comprised in that lease, the rights to which he is entitled on the grant of the new lease shall be treated as a continuation of the rights to which he was entitled immediately before the surrender of the existing lease.
- (4) In this section—

“the existing lease”, in relation to a lease granted under section 56, means the lease surrendered on the grant of the new lease, and
“rights of occupation” has the same meaning as in the Matrimonial Homes Act 1983.”

118 Estate management schemes in connection with enfranchisement by virtue of s. 106

- (1) Chapter IV of Part I of the 1993 Act, except section 75(1), (estate management schemes in connection with enfranchisement by virtue of that Act) shall also have effect subject to the modifications mentioned in subsections (2) to (4) below.
- (2) In section 69(1) (definition of estate management schemes), for paragraphs (a) and (b) there shall be substituted—
 - “(a) acquiring the landlord’s interest in their house and premises (“the house”) under Part I of the Leasehold Reform Act 1967 by virtue of the provisions of section 1AA of that Act (as inserted by paragraph 1 of Schedule 9 to the Housing Act 1996), or
 - (b) acquiring the landlord’s interest in any premises (“the premises”) in accordance with Chapter I of this Part of this Act by virtue of the amendments of that Chapter made by paragraph 3 of Schedule 9 to the Housing Act 1996,”
- (3) In section 70 (time limit for applications for approval), for “two years beginning with the date of the coming into force of this section” there shall be substituted “two years beginning with the coming into force of section 118 of the Housing Act 1996”.

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- (4) In section 74 (effect of application for approval on claim to acquire freehold), in subsection (1)—
- (a) in paragraph (b), in sub-paragraph (i), the words from “being” to the end shall be omitted, and
 - (b) after that paragraph there shall be inserted “and
 - (c) in the case of an application for the approval of a scheme as an estate management scheme, the scheme would extend to the house or premises if acquired in pursuance of the notice.”
- (5) Section 94(6) to (8) of the 1993 Act (estate management schemes relating to Crown land) shall also have effect with the substitution for any reference to a provision of Chapter IV of Part I of that Act of a reference to that provision as it has effect by virtue of subsection (1) above.
- (6) In section 33 of the National Heritage Act 1983 (general functions of the Historic Buildings and Monuments Commission for England), after subsection (2B) there shall be inserted—
- “(2C) In subsection (2B), references to provisions of the Leasehold Reform, Housing and Urban Development Act 1993 include references to those provisions as they have effect by virtue of section 118(1) of the Housing Act 1996.”
- (7) In section 72 of the Planning (Listed Buildings and Conservation Areas) Act 1990 (general duty as respects conservation area in exercise of planning functions), at the end there shall be inserted—
- “(3) In subsection (2), references to provisions of the Leasehold Reform, Housing and Urban Development Act 1993 include references to those provisions as they have effect by virtue of section 118(1) of the Housing Act 1996.”
- (8) In this section, “the 1993 Act” means the Leasehold Reform, Housing and Urban Development Act 1993.

119 Leasehold valuation tribunals: pre-trial review

- (1) Procedure regulations may make provision in relation to proceedings before a leasehold valuation tribunal—
- (a) for the holding of a pre-trial review, on the application of a party to the proceedings or of the tribunal’s own motion; and
 - (b) for the exercise of the functions of the tribunal in relation to, or at, a pre-trial review by a single member who is qualified to exercise them.
- (2) In subsection (1) “procedure regulations” means regulations under section 74(1)(b) of the Rent Act 1977, as that section applies in relation to leasehold valuation tribunals.
- (3) For the purposes of subsection (1)(b)—
- (a) a “member” means a member of the panel provided for in Schedule 10 to that Act, and
 - (b) a member is qualified to exercise the functions referred to if he was appointed to that panel by the Lord Chancellor.