
STATUTORY INSTRUMENTS

2003 No. 3096

The Regulatory Reform (Business Tenancies) (England and Wales) Order 2003

COMPANIES AND THEIR CONTROLLING SHAREHOLDERS

Amendment to section 23

13. After section 23(1) (tenancies to which Part 2 applies) insert—

“(1A) Occupation or the carrying on of a business—

- (a) by a company in which the tenant has a controlling interest; or
- (b) where the tenant is a company, by a person with a controlling interest in the company,

shall be treated for the purposes of this section as equivalent to occupation or, as the case may be, the carrying on of a business by the tenant.

(1B) Accordingly references (however expressed) in this Part of 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, a company falling within subsection (1A)(a) above or a person falling within subsection (1A)(b) above.”

Amendments to section 30

14.—(1) After section 30(1) (opposition by landlord to renewal of tenancy) insert—

“(1A) Where the landlord has a controlling interest in a company, the reference in subsection (1)(g) above to the landlord shall be construed as a reference to the landlord or that company.

(1B) Subject to subsection (2A) below, where the landlord is a company and a person has a controlling interest in the company, the reference in subsection (1)(g) above to the landlord shall be construed as a reference to the landlord or that person.”

(2) After section 30(2) insert—

“(2A) Subsection (1B) above shall not apply if the controlling interest was acquired after the beginning of the period of five years which ends with the termination of the current tenancy, and at all times since the acquisition of the controlling interest the holding has been comprised in a tenancy or successive tenancies of the description specified in section 23(1) of this Act.”

Amendment to section 34

15. After section 34(2) (improvements to which subsection (1)(c) applies) insert—

“(2A) If this Part of this Act applies by virtue of section 23(1A) of this Act, the reference in subsection (1)(d) above to the tenant shall be construed as including—

- (a) a company in which the tenant has a controlling interest, or

- (b) where the tenant is a company, a person with a controlling interest in the company.”.

Amendment to section 42

16. At the end of the first paragraph of section 42(1)(1) (groups of companies) add “or the same person has a controlling interest in both”.

Amendments to section 46

17.—(1) Section 46 (interpretation of Part 2) shall become section 46(1).

(2) After that subsection add—

“(2) For the purposes of this Part of this Act, a person has a controlling interest in a company, if, had he been a company, the other company would have been its subsidiary; and in this Part—

“company” has the meaning given by section 735 of the Companies Act 1985; and

“subsidiary” has the meaning given by section 736 of that Act.”.

(1) Section 42(1) was amended by paragraph 3 of Schedule 18 to the Companies Act 1989 (c. 40).