



Leasehold (Enlargement and Extension) Act (Northern Ireland) 1971

1971 CHAPTER 7

An Act to enable lessees of certain premises held on long leases to purchase the fee simple interest in the land, to enable grantees of certain fee farm grants to redeem their fee farm rents, to enable such lessees to obtain an extension of their leases, and for matters connected with those matters. [18th March 1971]

1^{F1} General right to acquire fee simple or to obtain extension of lease.

- (1) A person who, as respects any land, is a person to whom this section applies, shall, subject to the provisions of this Act, have the right as incident to his existing estate in the land—
 - (a) to enlarge that estate into a fee simple, and for that purpose to acquire by purchase the fee simple in the land and any intermediate estates therein;
 - (b) to obtain an extension of his leasehold estate in the land on one occasion only for a term of not more than fifty years.
- (2) The right referred to in subsection (1) may be exercised, subject to subsections (5) and (6),—
 - (a) for the purpose of enlarging a leasehold estate in land into a fee simple, at any time prior to the expiry of the lease under which the land is held for the time being, or the expiration of three months from the service on the lessee by his immediate lessor or any superior lessor of notice of the expiry of that lease, whichever is the later; but that right shall not be capable of being exercised during the period of an extension of the leasehold estate granted by reason of this Act;
 - (b) for the purpose of obtaining an extension of a leasehold estate in the land, at any time not earlier than five years before the expiry of the lease, and not later than the date of the expiry of the lease or the expiration of three months from the service on the lessee by his immediate lessor or any superior lessor of notice of the expiry of that lease, whichever is the later; and that notice shall be a valid notice only if it is served not earlier than five years before the date of the expiry of the lease.

Changes to legislation: There are currently no known outstanding effects for the Leasehold (Enlargement and Extension) Act (Northern Ireland) 1971. (See end of Document for details)

- (3) Subject to subsections (4) and (6)^{F2} to (8)], this section applies to every person where
- (a) the person is a lessee who holds land under a lease first granted for more than twenty-one years; and
 - (b) the land does not exceed one hectare or two acres, one rood and one thousand and seventy square yards; and
 - (c) there are buildings on the land; and
 - (d) so much of the land as is not covered by the buildings is subsidiary and ancillary to the land which is covered by the buildings; and
 - (e) the person occupies the buildings in whole or in part by virtue of the lease as his sole or principal residence and is not by reason of such occupation in breach of a covenant in the lease; and
 - (f) if the lease will expire within fifty years of the date on which the lessee serves notice upon his immediate lessor under section 2, the lessee has been on that date a person qualified under paragraph (e) for the period of five years, or for periods amounting to five years in the period of ten years, ending on that date; and for the purposes of this paragraph a lessee shall be deemed to be so qualified if he occupied the buildings in whole or in part as his sole or principal residence for such period or periods in his capacity as a member of the family of his predecessor in title, that is to say, as—
 - (i) the spouse^{F3} or civil partner] of the predecessor in title;
 - (ii) the child, adopted child or stepchild (whether such child or stepchild be legitimate or not) of the predecessor in title or of his spouse^{F3} or civil partner];
 - (iii) the son-in-law or daughter-in-law of the predecessor in title or of his spouse^{F3} or civil partner];
 - (iv) the parent or parent-in-law of the predecessor in title or of his spouse^{F3} or civil partner]; and
 - (g) the rent reserved by the lease does not exceed a ground rent.
- (4) This section shall not apply to persons who hold land under the following leases—
- (a) a lease of land which is used for the purposes of a business unless the buildings on the land are used in whole or in part as the lessee's sole or principal residence;
 - (b) a lease of land where the buildings on the land are divided into more than three separate and self-contained flats, that is to say, four or more suites of rooms each of which suites forms within itself a complete residence irrespective of whether the rooms in each suite are or are not all on the same floor, being a lease which contains provisions enabling the amount of the rent reserved by the lease to be altered within twenty-one years from the commencement of the lease;
 - (c) a lease of land containing a covenant, condition or agreement by the lessee to erect a building or buildings or carry out development on the land where the covenant, condition or agreement has not been complied with;
 - (d) a lease of agricultural land, including farm houses and farm buildings;
 - (e) a mining lease;
 - (f) a lease made either in consideration of, or stated to be dependent on, the continuance of the lessee in any office, employment or appointment;

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- (g) a lease granted in breach of any prohibition against the granting thereof contained in any other lease or agreement.
- ^{F4}(h) a lease of land granted^{[F2}, otherwise than in pursuance of Chapter I of Part III of the Housing (Northern Ireland) Order 1986] by the Northern Ireland Housing Executive or a housing association registered under the Housing (Northern Ireland) Order 1981 and declared for the purposes of this section to be an equity-sharing lease within the meaning of Article 31(6)(a) of that Order.]
- (5) Where a notice of expiry of a lease has not been served on the lessee, references in subsection (2) to the service of such a notice includes references to the institution against the lessee of proceedings for the recovery of possession of the land by reason of such expiry.
- Subs.(6) spent*
- ^{[F2}(7) Subject to subsection (8), where a lease is granted in pursuance of Chapter I of Part II of the Housing (Northern Ireland) Order 1983 or of Chapter I of Part III of the Housing (Northern Ireland) Order 1986, this section shall have effect in relation to such a lease as if paragraph (a) of subsection (3) were omitted.
- (8) Notwithstanding anything in subsection (7), where, in pursuance of Chapter I of Part III of the Housing (Northern Ireland) Order 1986, a lease is granted in respect of a dwelling-house which is a house, then, so long as the rent payable under the lease exceeds £10 per annum, this section shall not have effect in relation to such a lease.
- (9) Expressions used in subsections (7) and (8), which are defined in Chapter I of Part II of the Housing (Northern Ireland) Order 1983, shall have the meanings given in that Chapter.]

Annotations:

- F1** functions transf. 1982 NI 6
F2 1986 NI 13
F3 [2004 c.33](#)
F4 1981 NI 3

2^{F5} Notice of intention to acquire fee simple or to obtain grant of an extended lease.

- (1) Where a person proposes to acquire the fee simple in the land or an extension of his leasehold estate in the land by virtue of this Act he shall serve a notice in the prescribed form upon each of the following persons who can be found and ascertained, that is to say,—
- the person who is for the time being entitled to the next superior estate in the land; and
 - every person (if there be any such person) who is, in relation to the land, a superior lessor of the person so proposing; and
 - every mortgagee of the land (if there be any such person); and
 - every owner of any other incumbrance affecting the land (if there be any such person).
- (2) It shall be a sufficient compliance with subsection (1)(a) if the notice is served on the person to whom the rent under the lease is paid.

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- (3) Where for any reason whatsoever a notice served under subsection (1) is defective, the Lands Tribunal may allow the person who served the defective notice to serve an amended notice within such time and subject to such order as to costs as the Tribunal may determine.

Annotations:

F5 functions transf. 1982 NI 6

3^{F6} Conveyance of fee simple.

- (1) Where, in relation to land the fee simple in which is proposed to be acquired by a person under this Act, a notice under section 2 is served, the person by whom it is served and every person upon whom it is served shall take every necessary step which is within his power to take to effect a conveyance free from incumbrances of the fee simple and any intermediate estates in the land to the person proposing to acquire the fee simple.
- (2) In subsection (1) and section 14 “incumbrances” does not include a mortgage of the estate of the person proposing to acquire the fee simple, and, upon conveyance of the fee simple in land to a person who is acquiring the fee simple therein under this Act the fee simple estate shall be a graft for all purposes on the leasehold estate of the person so acquiring the fee simple and his estate in fee simple shall be subject to any rights or equities arising from the fee simple being such a graft, and, in particular, any undischarged mortgage of that leasehold estate shall attach to, and be enforceable against, the fee simple so acquired.
- (3) Where by reason of subsection (2) the fee simple in land is subject to a mortgage, and at the time of the execution of the conveyance of the fee simple the mortgagee is by reason of the mortgage entitled to possession of the documents of title relating to the land, then he shall be similarly entitled to possession of the documents of title relating to the fee simple and the grantee of the fee simple shall within six weeks of the execution of the conveyance of the fee simple deliver it to him, and the mortgage shall apply in the event of the grantee failing unreasonably to deliver the conveyance in accordance with this subsection as if the obligation to do so were included in the terms of the mortgage as set out in that instrument.

Annotations:

F6 functions transf. 1982 NI 6

4^{F7} Notice requiring information.

- (1) For the purpose of securing the joinder of all necessary parties in the conveyance of the fee simple in land to a person entitled to acquire it under this Act, and, accordingly, for the purpose of effectively serving any notice under section 2, that person may serve all or any of the following notices—
- (a) on his immediate lessor or the person to whom he pays the rent under the lease a notice in the prescribed form requiring such lessor or person to inform him of the nature and duration of that lessor's reversion in the land comprised in the lease or any part thereof, the amount, if any, paid by that lessor to any other person for the collection of the rent reserved by the lease, and the name and address of the immediately superior lessor, if any, of that lessor;

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- (b) on any person whom the person so entitled reasonably believes to be a superior lessor or the agent of a superior lessor, a notice in the prescribed form requiring such person to inform him whether such person or any person for whom such person is agent has or has not any estate in the land or any part thereof, the nature, tenure and duration of such estate, if any, and the names and addresses of the persons having estates in the said land or any part thereof immediately superior or immediately inferior to such estate.
- (2) The information which any such person as is mentioned in paragraphs (a) and (b) of subsection (1) is required to give under that subsection shall include information, where such information is in the knowledge of the person, whether there is a mortgage of the estate in the land of the immediate lessor or of the superior lessor and, if so, what is the name and address of the mortgagee under the mortgage.
- (3) Where a mortgagee is in possession of an estate in the land or any part thereof, being an estate in reversion expectant (whether immediately or not) on the estate of the person entitled to acquire the fee simple under this Act that person may serve a notice in the prescribed form requiring the mortgagee to inform him—
- (a) of the nature and duration of the estate of his mortgagor; and
- (b) of the name and address of the immediate lessor, if any, of his mortgagor.
- (4) It shall be the duty of any person on whom a notice is served under this section to furnish in writing within six weeks after the service of such notice to the person by whom such notice was so served, the information asked for by such notice so far as it is within the possession or procurement of such person.
- (5) Where a notice is served under this section and the person on whom such notice is so served fails or neglects to furnish in writing, within the time limited by this section, the information he is required by this section so to furnish, the person by whom the notice was served may apply to the Lands Tribunal and on the hearing of such application the Lands Tribunal may make such order as it thinks necessary with a view to compelling such person so to furnish such information and any such order may be enforced by mandamus.
- (6) In this section “mortgagee in possession” includes a receiver, appointed by the mortgagee or by a court of competent jurisdiction who is in receipt of the rents and profits, and the expression “his mortgagor” shall be construed accordingly.

Annotations:

F7 functions transf. 1982 NI 6

5^{F8} Provisions in relation to parties to conveyance of fee simple.

- (1) Where a person who is required by this Act to convey or join in the conveyance of the fee simple in land is, by reason of having a fiduciary capacity or a limited estate or by reason of restrictive covenants in the lease under which he holds, incapable in law of conveying or joining in, (as the case may be) the conveyance of the fee simple, the Lands Tribunal may, on the application of any person concerned, empower the person so required to convey or join in conveying (as the case may be) the fee simple.
- (2) Where a person who is required by this Act to convey or join in conveying the fee simple in land is a minor or is unknown or unascertained or refuses or fails to execute such conveyance, the Lands Tribunal may, on the application of any person concerned,