



Number 16 of 1978

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**LANDLORD AND TENANT (GROUND RENTS) (NO. 2) ACT, 1978**

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*Number 16 of 1978*

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**LANDLORD AND TENANT (GROUND RENTS) (NO. 2) ACT, 1978**

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AN ACT TO PROVIDE FOR THE ACQUISITION OF THE FEE SIMPLE IN LAND BY CERTAIN LESSEES AND TENANTS AND THE CONSEQUENTIAL TERMINATION OF THEIR LIABILITY FOR THE PAYMENT OF GROUND RENT, TO AMEND IN OTHER RESPECTS THE LAW OF LANDLORD AND TENANT AND TO PROVIDE FOR OTHER MATTERS CONNECTED WITH THE MATTERS AFORESAID. [28th June, 1978]

BE IT ENACTED BY THE OIREACHTAS AS FOLLOWS:

PART I

Preliminary

Short title, construction and collective citation.	<p><b>1.</b>—(1) This Act may be cited as the Landlord and Tenant (Ground Rents) (No. 2) Act, 1978.</p> <p>(2) The collective citation, the Landlord and Tenant Acts, 1931 to 1978, shall include this Act and those Acts and this Act shall be construed together as one Act.</p>
Commencement.	<p><b>2.</b>—This Act shall come into operation on the 1st day of August, 1978.</p>
Definitions.	
[New in pt. cf. 1931, s.2; 1958, s.2; 1967, s.2 (1)]	<p><b>3.</b>—In this Act, except where the context otherwise requires—</p> <p>“<i>the Act of 1931</i>” means the Landlord and Tenant Act, 1931 ;</p> <p>“<i>the Act of 1958</i>” means the Landlord and Tenant (Reversionary Leases) Act, 1958 ;</p> <p>“<i>the Act of 1967</i>” means the Landlord and Tenant (Ground Rents) Act, 1967 ;</p> <p>“<i>the Court</i>” means the Circuit Court;</p> <p>“<i>dwelling</i>” does not include a separate and self-contained flat in premises divided into two or more such flats;</p> <p>“<i>dwellinghouse</i>” has the meaning assigned by section 19;</p> <p>“<i>immediate lessor</i>” means the person for the time being entitled to the next superior interest in land held by any person whether under a lease or other contract of tenancy, or otherwise;</p> <p>“<i>lease</i>” means an instrument in writing, whether under or not under seal, containing a contract of tenancy in respect of any land in consideration of a rent or return and includes a fee farm grant;</p> <p>“<i>lessee</i>” includes the personal representatives and successors in title of a lessee;</p> <p>“<i>lessor</i>” includes the personal representatives and successors in title of a lessor;</p> <p>“<i>the Minister</i>” means the Minister for Justice;</p> <p>“<i>notice</i>”, in relation to the acquisition of the fee simple, means, where notices are required to be served under section 4 of the Act of 1967 on more than one person, the first served of those notices;</p> <p>“<i>statutory tenancy</i>” means a statutory tenancy under the Rent Restrictions Act, 1946 , or the Rent Restrictions Act, 1960 .</p>
Restriction on application to State.	<p><b>4.</b>—This Act shall not bind a Minister of the Government, the Commissioners of Public Works in Ireland or the Irish Land Commission.</p>
[New]	
Regulations.	<p><b>5.</b>—(1) The Minister may make regulations for the purpose of giving full effect to the provisions of this Act including the prescribing of forms.</p>
[cf. 1931, s.7; 1967,	

s.34]

(2) Every regulation made by the Minister under this Act shall be laid before each House of the Oireachtas as soon as may be after it is made and, if a resolution annulling the regulation is passed by either such House within the next subsequent twenty-one days on which that House has sat after the regulation is laid before it, the regulation shall be annulled accordingly, but without prejudice to the validity of anything previously done under the regulation.

Expenses.

[cf. 1931, s.8]

6.—The expenses incurred by the Minister in the administration of this Act shall, to such extent as may be sanctioned by the Minister for Finance, be paid out of moneys provided by the Oireachtas.

Repeals.

7.—(1) The following provisions of the Act of 1967 are hereby repealed: sections 3 (except subsection (5)), 5 (1) (2), 18 and 31.

(2) The reference in section 3 (5) of the Act of 1967 to a certificate of the Commissioner of Valuation shall have effect as if for the reference to “paragraph (d) of subsection (2) of this section” there were substituted a reference to Part II of this Act.

## PART II

### Purchase of Fee Simple

#### *General Right*

General right to acquire fee simple.

[1967, s. 3(1)]

8.—A person to whom this Part applies shall, subject to the provisions of this Part, have the right as incident to his existing interest in land to enlarge that interest into a fee simple, and for that purpose to acquire by purchase the fee simple in the land and any intermediate interests in it and the Act of 1967 shall apply accordingly.

#### *Lessees*

Right of lessee.

[New in pt. cf. 1958, s. 4

(2) in pt., (4) (5) (6);

1967, s.3 (2) in pt.]

9.—(1) This Part applies to a person who holds land under a lease, if the following conditions are complied with:

(a) that there are permanent buildings on the land and that the portion of the land not covered by those buildings is subsidiary and ancillary to them;

(b) that the permanent buildings are not an improvement within the meaning of subsection (2);

(c) that the permanent buildings were not erected in contravention of a covenant in the lease; and

(d) one of the alternative conditions set out in section 10.

(2) In subsection (1) (b) “*improvement*” in relation to buildings means any addition to or

alteration of the buildings and includes any structure which is ancillary or subsidiary to those buildings, but does not include any alteration or reconstruction of the buildings so that they lose their original identity.

(3) Where it is claimed that a lease complies with this Part on the ground that the permanent buildings were erected in pursuance of an agreement for the grant of the lease on their erection but express evidence of the agreement is not available, the following provisions shall have effect:

(a) if it is proved that the buildings were erected by the person to whom the lease was subsequently made, it shall be presumed, until the contrary is proved, that the agreement was in fact made and that the buildings were erected in accordance with it;

(b) in any other case, the arbitrator may, if he so thinks proper on hearing such evidence as is available and is adduced, presume that the agreement was in fact made and that the buildings were erected in accordance with it.

(4) Permanent buildings erected by a lessee in pursuance of a covenant in his lease to reinstate the buildings comprised in the lease in the event of their destruction by fire or otherwise shall be deemed to have been erected by the person who erected the original buildings.

(5) The arbitrator may declare a person to be a person to whom this Part applies notwithstanding that the buildings were, in whole or in part, erected in contravention of a covenant, if he is of opinion that it would be unreasonable to order otherwise.

Alternative conditions to be complied with.

**10.**—The following are alternative conditions one of which must also be complied with in a case to which section 9 relates:

[1958, s. 4 (2) (d)]

1. that the permanent buildings were erected by the person who at the time of their erection was entitled to the lessee's interest under the lease or were erected in pursuance of an agreement for the grant of the lease upon the erection of the permanent buildings;

[New. cf. 1958, s. 4 (3) (a)]

2. that the lease is for a term of not less than fifty years and the yearly amount of the rent or the greatest rent reserved thereunder (whether redeemed at any time or not) is of an amount that is less than the amount of the rateable valuation of the property at the date of service under section 4 of the Act of 1967 of notice of intention to acquire the fee simple or the date of an application under Part III of this Act, as the case may be, and that the permanent buildings on the land demised by the lease were not erected by the lessor or any superior lessor or any of their predecessors in title:

provided that it shall be presumed, until the contrary is proved, that the buildings were not so erected;

[1958, s. 5 in pt.]

3. that the lease was granted by a lessor to the nominee of a person (in this paragraph referred to as the builder) to whom land was demised for the purpose of erecting buildings thereon in pursuance of an agreement between the lessor and the builder that the builder having contracted to sell the buildings would surrender his lease in consideration of the lessor granting new leases to the builder's nominees;

[1958, s. 5 in pt.]

4. that the lease was granted by a lessor to the nominee of a person (in this paragraph referred to as the builder) in pursuance of an agreement between the lessor and the builder that the lessor, upon the erection of the buildings by the builder, would grant leases to the builder's nominees;

[1971, s. 8 (1)]

5. that the lease was granted, either at the time of the expiration or surrender of a previous lease or subsequent to such expiration or surrender—

(a) at a rent less than the rateable valuation of the property at the date of the grant of the lease, or

(b) to the person entitled to the lessee's interest under the previous lease,

provided that the previous lease expired or was surrendered before the 31st day of March, 1931 and that it would have been a lease to which this Part applied had this Act then been in force and provided that it shall be presumed, until the contrary is proved, that the person to whom the lease was granted was so entitled;

[1958, s. 19 in pt.]

6. that the lease is a reversionary lease granted on or after the 31st day of March, 1931, to a person entitled thereto under Part V of the Act of 1931 or the Act of 1958, whether granted on terms settled by the Court or negotiated between the parties;

[New. cf. 1958, s. 7]

7. that the lease, being a lease for a term of not less than fifty years, was made—

(a) partly in consideration of the payment of a sum of money (other than rent) by the lessee to the lessor at or immediately before the grant of the lease and, for this purpose, any money paid in redemption of any part of the rent reserved by the lease (whether the money was paid in pursuance of a covenant in the lease or in pursuance of an agreement made between the lessee and the lessor during the currency of the lease) shall be deemed to be part of the consideration, or

(b) partly in consideration of the expenditure (otherwise than on decoration) of a sum of money by the lessee on the premises demised by the lease, or

(c) partly in consideration of both that payment and that expenditure,

where the sum so paid or expended or the total of those sums was not less than fifteen times the yearly amount of the rent or the greatest rent reserved by the lease, whichever is the less.

Greatest rent under  
section 10.  
[1958, s. 7 (3)]

**11.**—In determining for the purposes of section 10 the greatest rent reserved by a lease the following provisions shall have effect:

(a) where during the currency of a lease part of the rent is redeemed by a capital payment, the reduced rent shall be deemed to be the greatest rent reserved by the lease;

(b) a penal rent payable for any breach of covenant and any exceptional rent reserved for a specified period not exceeding five years shall be disregarded.

Extension of section 10,  
condition 7.  
[New]

**12.**—A lease for a term of not less than fifty years shall be deemed to comply with condition 7 in section 10 if—

(a) the lease was granted partly in consideration of an undertaking by the lessee to carry out specified works on the premises demised by the lease,

(b) the amount to be expended on the works was not specified,

(c) the works were carried out by the lessee, and

(d) it is proved that the reasonable cost of the works taken either alone or together with any fine or other payment mentioned in that condition was not less than fifteen times the yearly amount of the rent or the greatest rent reserved by the lease, whichever is the less.

Right of lessee under  
expired lease.  
[1958, s. 14; 1971, s. 9]

**13.**—Where—

(a) a lease expired within ten years before the commencement of this Act, and

(b) the lessee is, at such commencement, in possession of the land comprised in the expired lease under a yearly tenancy arising by implication from the acts of the parties or under a statutory tenancy under the Rent Restrictions Acts, 1960 and 1967, or as a tenant at will or otherwise, without having obtained a new tenancy from the lessor or acquired the lessor's interest in the land, and

(c) no person was, immediately before such commencement, entitled to be granted a lease under the Act of 1958,

the lessee shall, during the twelve months after the commencement of this Act, have the same right to acquire the fee simple as he would have if his lease had not expired.

Partly-built leases.

**14.**—(1) Where a person holds land under a lease (in this section referred to as a partly-built lease) which would entitle him to acquire the fee simple but for the fact that the portion

[New in pt. cf. 1958, s.  
6]

of the land which is not covered by the permanent buildings is not wholly subsidiary and ancillary to those buildings, the following provisions of this section shall have effect.

(2) The partly-built lease shall, for the purposes of this Act, be deemed to comprise two separate leases as follows:

(a) one lease (in this section referred to as the built-on lease) comprising that portion of the land demised by the partly-built lease which is covered by the permanent buildings, together with so much of the land as is subsidiary and ancillary to those buildings, and

(b) the other lease (in this section referred to as the vacant lease) comprising the residue of the said land.

(3) For the purposes of the division of the partly-built lease, such portion of the rent reserved by that lease as is fairly attributable to the land comprised in the built-on lease shall be apportioned to the built-on lease and the remainder of the said rent shall be apportioned to the vacant lease, and the covenants on the lessee's part and the conditions contained in the partly-built lease shall be apportioned likewise so as to relate separately to the land comprised in the built-on lease and to the land comprised in the vacant lease.

(4) The built-on lease shall be a lease to which this Part applies.

#### *Yearly Tenants*

**15.**—(1) This Part also applies to a person who holds land in the following circumstances—

Right of yearly tenant.

[New in pt. cf. 1967, s. 3 (2) (d) (ii), (4) (b)]

(a) that the land is covered wholly or partly by permanent buildings and any land not so covered is subsidiary and ancillary to those buildings;

(b) that the land is held under a contract of yearly tenancy or under a yearly tenancy arising by operation of law or by inference on the expiration of a lease, or under a statutory tenancy implied by holding over property on the expiration of a lease which reserves a yearly rent;

(c) that the land has been continuously held under any one or more of the tenancies referred to in paragraph (b) (including any expired lease) by the person or his predecessors in title for a period of not less than twenty-five years prior to the date of service by the person of notice of intention under section 4 of the Act of 1967 to acquire the fee simple or the date of an application under Part III of this Act;

(d) that the yearly rent is less than the rateable valuation of the property at the date of the service of that notice of intention or application;

(e) that the permanent buildings were not erected by the immediate lessor or any



superior lessor or any of their predecessors in title, provided, however, that it shall be presumed until the contrary is proved that the permanent buildings were not so erected;

(f) that the contract of tenancy is not a letting which is made and expressed to be made for the temporary convenience of the immediate lessor or of the person holding under the contract and, if the letting was made after the passing of the Act of 1931, stating the nature of the temporary convenience, and

(g) that the contract of tenancy is not a letting which is made for or dependent on the continuance of the person holding under the contract in any office, employment or appointment.

[New. cf. 1958, s. 6]

(2) Where land (in this section referred to as a partly-built holding) would be land in relation to which this section applies but for the fact that the portion of the land which is not covered by the permanent buildings is not wholly subsidiary and ancillary to those buildings, subsections (3), (4) and (5) shall have effect.

[New. cf. 1958, s. 6]

(3) The partly-built holding shall, for the purposes of this Part, be deemed to comprise two separate holdings as follows:

(a) one holding (in this section referred to as the built-on holding) comprising that portion of the land which is covered by the permanent buildings, together with so much of the land as is subsidiary and ancillary to those buildings, and

(b) the other holding (in this section referred to as the vacant holding) comprising the residue of the land.

[New. cf. 1958, s. 6]

(4) For the purposes of the division of the partly-built holding, such portion of the rent for the holding as is fairly attributable to the land comprised in the built-on holding shall be apportioned to the built-on holding and the remainder of the rent shall be apportioned to the vacant holding, and the covenants on the part of the person holding the land and the conditions attached to the tenancy of the partly-built holding shall be apportioned likewise so as to relate separately to the land comprised in the built-on holding and to the land comprised in the vacant holding.

[New. cf. 1958, s. 6]

(5) The built-on holding shall be land in relation to which this section applies.

#### *Restrictions*

Restrictions on right to acquire fee simple.

**16.**—(1) Section 8 does not apply, in relation to any land, to a person who has been declared by virtue of section 15 (1) of the Act of 1958 not to be entitled to a reversionary

[1967, s. 3 (3) (4) (a)]

lease of the land under that Act and who is in possession of the land under a lease or tenancy or by virtue of subsection (2) of the said section 15.

(2) A person shall not be entitled to acquire the fee simple under this Part if the lease on which such right is based is—

(a) a lease of land which is used for the purposes of business or includes a building divided into not less than four separate and self-contained flats being a lease which contains provisions enabling the amount of the rent reserved by the lease to be altered within twenty-six years from the commencement of the lease (not being provisions enabling such rent to be altered once only and within five years from such commencement or upon the erection after such commencement of any buildings upon the land or upon the breach of a covenant in the lease), or

(b) a lease granted before the commencement of the Act of 1967 of land which is used for the purposes of business, being a lease which contains provisions requiring the lessee to carry on business on the land which is restricted in whole or in part to dealing in commodities produced or supplied by the lessor, or

(c) a lease of land containing a covenant by the lessee to erect a building or buildings or carry out development on the land if and so long as the covenant has not been substantially complied with, or

(d) a lease made by the Commissioners of Irish Lights, or

(e) a lease made by a harbour authority, within the meaning of the Harbours Act, 1946, whether before or after the passing of that Act.

#### *Purchase Price*

Determination of purchase price by arbitration.

[New in pt. cf. 1967, s. 18]

**17.—**(1) This section applies to the determination of the purchase price of the fee simple or any other interest by arbitration under the Act of 1967 including an arbitration conducted by the Registrar of Titles in pursuance of section 21 of this Act.

(2) The purchase price shall, subject to subsections (3), (4) and (6), be the sum which, in the opinion of the arbitrator, a willing purchaser would give and a willing vendor would accept for the fee simple or other interest having had regard to—

(a) the rent payable for the land by the person acquiring the fee simple,

(b) where the land was held by the person acquiring the fee simple under a lease which has expired or is held by him under a lease which will expire less than fifteen years after the date of the service of the notice under section 4 of the Act of 1967 or of the application under Part III of this Act, the rent which, in

the opinion of the arbitrator, would be reserved by a reversionary lease under the Act of 1958 of the land granted for a term commencing on the expiration of the first-mentioned lease,

(c) the current interest yields on securities of the Government issued for subscription in the State,

(d) if the land is used for the purposes of business or exceeds one acre in area and is not used for the purposes of business, the area and nature of the land, its location and user and the state of repair of any buildings or structures thereon,

(e) the price paid for the fee simple or any other interest in the land on a sale taking place on or after the 22nd day of May, 1964,

(f) any mortgage or other charge on the interest in the land of any person from whom, mediately or immediately, the person acquiring the fee simple holds the land,

(g) the costs and expenses which, in the opinion of the arbitrator, would be reasonably incurred by the persons from whom, mediately or immediately, the person acquiring the fee simple holds the land, in investing the purchase money payable in respect of the acquisition of the fee simple,

(h) the costs and expenses which, in the opinion of the arbitrator, have been incurred by a person acquiring the fee simple who holds the land under a lease by reason of the failure of the lessor to maintain any amenities which he is required to maintain under a covenant in the lease,

(i) the current price of the immediate lessor's interest in land held under leases or yearly tenancies similar to the lease or yearly tenancy, as the case may be, under which the land is held by the person acquiring the fee simple, and

(j) such other matters as are, in the opinion of the arbitrator, relevant to the determination of the purchase price.

(3) If the land—

(a) is not used for the purposes of business,

(b) is held by the person acquiring the fee simple under a yearly tenancy, under a statutory tenancy implied by holding over property on the expiration of a lease which reserved a yearly rent or under a lease which will not expire within fifteen years after the date of the service of the notice under section 4 of the Act of 1967 or of the application under Part III of this Act, and

(c) does not exceed one acre in area,

then, subject to the subsequent provisions of this section, the purchase price shall not exceed the amount which, if invested on the date of the award in the security of the Government which was issued last before that date for subscription in the State and is redeemable not

less than fifteen years after the date of issue, would produce annually in gross interest an amount equal to the amount of the rent payable under the lease or yearly tenancy, as the case may be, during the year immediately preceding the date of the service of the said notice or application.

(4) Where the cost of extinguishing a rent or charge out of or on land the fee simple in which is being acquired under this Act or the Act of 1967 is fixed by statute, allowance shall be made for such cost in determining the purchase price of the fee simple under this section.

(5) Subsection (3) shall not apply in the case of a lease which provides for an increased rent payable at any time within fifteen years after the date of the service of the notice under section 4 of the Act of 1967 or of the application under Part III of this Act.

(6) If the land—

(a) is not used for the purposes of business,

(b) is held by the person acquiring the fee simple under a lease that will expire within fifteen years after the date of the service of the notice under section 4 of the Act of 1967 or of the application under Part III of this Act, and

(c) does not exceed one acre in area,

the purchase price shall not exceed the amount which would be determined under subsection (3) if the land were land to which that subsection applied, together with, in respect of each year by which the unexpired term of the lease falls short of fifteen years, one fifteenth of the difference between that price and the price that would be determined on the basis of a current reversionary rent.

(7) The arbitrator shall, if so requested by a party to the arbitration, specify the matters (if any) to which he has had regard under subsection (2) (j).

### PART III

#### Vesting of Fee Simple in Dwellinghouses

Duration of Part III.

[New]

**18.**—This Part shall have effect only in relation to applications made under it during the period of five years beginning on the commencement of this Act.

Dwellinghouses.

[New]

**19.**—This Part applies to land to which Part II applies where the permanent buildings are constructed for use wholly or principally as a dwelling and are so used and such land is referred to in this Act as a dwellinghouse.

Vesting by consent.

[New]

**20.**—A person who is entitled to acquire the fee simple in a dwellinghouse by virtue of Part II may, with the consent of every person who would be a necessary party to the conveyance to him of the fee simple free from incumbrances, apply to the Registrar of Titles to vest the premises in him under section 22.

Arbitration.

[New]

**21.**—(1) A person who claims to be entitled to acquire the fee simple in a dwellinghouse by virtue of Part II may, without any consent referred to in section 20, apply to the Registrar

of Titles to have the premises vested in him under section 22 and he shall serve notice of his application upon the immediate lessor. Service of a notice may be effected in any manner provided for by section 63 of the Act of 1931 or section 23 of the Act of 1967.

(2) The Registrar may, however, dispense with service under subsection (1) where the applicant satisfies him that it is not reasonably practicable to effect such service. In any such case, the Registrar shall serve notice of the application on every person who appears to him to be the owner of any estate, interest or incumbrance which would be extinguished by the issue of a certificate under section 22 (1), so far as it is reasonably practicable to ascertain such persons.

(3) The Registrar of Titles shall determine the application by arbitration.

(4) The provisions of the Act of 1967 shall apply for the purposes of this Part with the substitution, for references to the county registrar, of references to the Registrar of Titles.

(5) An appeal to the Court under section 22 of the Act of 1967 against an award, order or other decision of the Registrar as arbitrator shall be heard and determined by a Judge of the Court for the time being assigned to the circuit in which are situate the premises or any part of the premises in relation to which the appeal is taken.

Vesting certificate.

[New]

**22.**—(1) Where—

(a) the Registrar of Titles is satisfied that an application under section 20 has been duly made, or

(b) the Registrar as arbitrator or the Court on appeal is satisfied that the applicant under section 21 is entitled to acquire the fee simple,

the Registrar shall, subject to subsection (2), issue a certificate (in this section referred to as a “*vesting certificate*”) which shall, subject to subsection (3), operate to convey fee from incumbrances the fee simple and any intermediate interests in the dwellinghouse on the date specified in that behalf in the certificate.

(2) Before issuing a vesting certificate the Registrar shall satisfy himself that the purchase price has been paid or deposited with him, that the prescribed fees have been discharged and that rent for the dwellinghouse (other than arrears an action for the recovery of which is statute-barred) has been paid up to date.

(3) The vesting certificate shall be deemed to be a conveyance on sale for the purposes of sections 24 and 25 of the Registration of Title Act, 1964 (which provide for the extension of compulsory registration of ownership) and shall be deemed to be an instrument in the prescribed form for the purposes of section 51 of that Act (which provides for transfer of registered land).

(4) In a case to which subsection (3) relates, the Registrar shall, on being supplied with any further documents which he may require, provide for registration of the title under

the Registration of Title Act, 1964 .

(5) The Registrar shall serve notice of the grant of a vesting certificate on arbitration on every person who appears to him to have been the owner of any estate, interest or incumbrance extinguished by virtue of subsection (1), so far as it is reasonably practicable to ascertain such persons.

(6) A person who claims to be entitled, as the owner of any estate, interest or incumbrance extinguished by virtue of subsection (1), to payment of the purchase money or any part of it deposited with the Registrar may apply to the Registrar as arbitrator for an award and the arbitrator shall, after serving reasonable notice of the claim on each of the persons notified under subsection (5), make such award and give such directions as he thinks just for the disbursement and distribution of the purchase money.

(7) The Registrar may, if he thinks proper, lodge in Court any money deposited with him under this section and the jurisdiction conferred on him under subsection (6) shall thereupon be exercised by a Judge of the Court for the time being assigned to the circuit in which are situate the premises or any part of the premises in relation to which the money is lodged.

Fees.

[New in pt. cf. 1967, ss.

9, 19]

**23.**—(1) The fee to be taken in the Land Registry

(a) for the issue of a vesting certificate under section 22 shall, where the applicant is in occupation of the dwellinghouse, be £5;

(b) for an arbitration under section 21 shall, where the applicant is in occupation of the dwellinghouse, be £12 which shall be in addition to the fee to be taken under paragraph (a).

(2) The Minister, with the consent of the Minister for Finance, may by order fix the fees to be taken in the Land Registry for the purposes of this Part, other than the fees mentioned in subsection (1), and may revoke or amend any such order.

(3) With the exception of fees fixed in respect of the cases mentioned in subsection (1) the fees shall, so far as possible, be so fixed as to meet the full cost of dealing with the relevant application.

(4) The applicant shall be liable for the payment of the fee to be taken for the issue of the vesting certificate and, subject to subsection (5), he shall also be liable for the payment of the fee to be taken for the arbitration.

(5) Where the applicant is in occupation of the dwellinghouse neither he nor any other party shall be liable to make any payment, apart from the fees fixed by or under this section, to the Registrar in respect of the arbitration or vesting, save that where in the opinion of the Registrar, any party to the arbitration has behaved unreasonably (whether by act or omission) or has, without reasonable cause—

(a) refused or failed to comply with a provision of this Act or delayed in so complying, or

(b) refused or failed to reach agreement or delayed in reaching agreement in relation to any matter under this Act,

and thereby occasioned the incurring of the whole or part of the cost of dealing with the arbitration, the Registrar may direct that the whole or a specified part of such cost shall be paid by that party.

(6) Sections 9 and 19 (1) of the Act of 1967 (which provide for the costs of an arbitration) shall not apply where the applicant is in occupation of the dwellinghouse.

(7) Section 14 (2) of the Registration of Title Act, 1964 , shall not apply to the taking of fees in relation to the functions of the Registrar of Titles under this Act.

Duty of Registrar of  
Titles as to applications  
under Part III.  
[New]

**24.**—(1) The Registrar of Titles shall deal with applications received under this Part in the order in which they are received so far as is consistent with the efficient discharge of all his functions as Registrar of Titles.

(2) Where the Registrar is satisfied for reasons submitted in writing by the applicant or any other person concerned that an application is exceptional in that compliance with the duty imposed by subsection (1) in respect of it would result in serious inconvenience or substantial loss to any such person, he may deal with the application otherwise than in the order in which it was received.

(3) No action shall lie against the Registrar in relation to the duty imposed upon him under this section.

Exercise of functions of  
Registrar of Titles.  
[cf. 1964, s. 13]

**25.**—All or any of the powers and duties conferred or imposed on the Registrar of Titles by this Part may be exercised and performed by such of his officers as the Minister may authorise in that behalf.

## PART IV

### Miscellaneous

Acquisition of fee simple  
from housing authority.  
[New]

**26.**—(1) Where a housing authority have leased to a tenant a dwelling provided by them under statutory authority, the tenant shall be entitled to acquire from them the fee simple in the dwelling subject to the provisions of this section.

(2) The terms and conditions specified in the instrument by which the lease was effected (other than a condition for the payment of rent) shall continue to apply in relation to the dwelling for the period of twenty-five years from the date of the lease or for the period during which any part of the purchase price of the leasehold interest remains unpaid, whichever is the greater.

(3) Where the rent reserved by the lease contains an element in respect of the repayment of the purchase price of the leasehold interest, the housing authority shall certify the amount

of the purchase price and the amount of the rent attributable to the repayment of that amount, and the amount of such purchase price shall stand charged on the property from the date of acquisition of the fee simple.

(4) Where a housing authority have leased a dwelling provided by them under statutory authority, to a person other than a tenant thereof, the lessee shall be entitled to acquire from them the fee simple in the dwelling and any condition specified in the instrument by which the lease was effected in respect of the repayment of the purchase price of the leasehold interest or in respect of the refund of a subsidy shall attach to the fee simple.

(5) The purchase price of the fee simple shall not exceed the amount provided for under section 17 (3) taking the rent referred to in that subsection as being the amount thereof less any amount attributable to the repayment of the purchase price of the leasehold interest.

(6) Every term and condition attaching to the grant of the fee simple pursuant to this section shall be binding upon the purchaser thereof, his personal representatives and successors in title.

(7) A vesting of the fee simple under this section shall be effected by a transfer order under section 90 of the Housing Act, 1966 .

(8) The fee to be taken by a housing authority for the issue of a transfer order pursuant to this section shall be £5.

(9) Where a housing authority has not the fee simple in any land on which it has provided dwellings under statutory authority, the authority shall be entitled to acquire the fee simple and for that purpose the provisions of Part II shall apply to the authority.

(10) In this section “*statutory authority*” shall be construed as including the Housing Act, 1966 , and any Act repealed by that Act.

(11) In this section references to a lease are to the grant of a leasehold interest in consideration of a purchase price.

Covenant for re-entry for non-payment of ground rent for dwellinghouse.  
[New]

**27.**—(1) Where a person is entitled to acquire the fee simple in a dwellinghouse by virtue of Part II a covenant giving the lessor a right to re-enter and take possession of the premises where rent is in arrear shall not be enforceable against him but this shall not affect any other civil remedy of the lessor.

(2) Section 52 of the Landlord and Tenant Law Amendment Act, Ireland, 1860 (which provides for proceedings for ejectment for non-payment of a year's rent) shall not apply to a dwellinghouse to which subsection (1) relates.

Effect of acquisition of fee simple on covenants.  
[New in pt. cf. 1967, s. 31]

**28.**—(1) Where a person having an interest in land acquires the fee simple in the land, all covenants subject to which he held the land, other than a covenant specified in subsection (2), shall thereupon cease to have effect and no new covenant shall be created in conveying the fee simple.

(2) In the case of a covenant—



(a) which protects or enhances the amenities of any land occupied by the immediate lessor of the grantee, or

(b) which relates to the performance of a duty imposed by statute on any such person, or

(c) which relates to a right of way over the acquired land or a right of drainage or other right necessary to secure or assist the development of other land,

the covenant shall, notwithstanding anything contained in this Act, continue in full force and effect and shall be enforceable as follows:

(i) in the case of a covenant which does not relate to a right of way, right of drainage or other right aforesaid, by any such person or his personal representatives or successors in title, as if the acquisition had not occurred, and

(ii) in the case of a covenant which does so relate, by any person aggrieved by breach of the covenant.

(3) In any case where the fee simple in land was acquired since the commencement of the Act of 1967 by a person who had an interest in the land, any covenant subject to which the grantee held the land, other than a covenant specified in subsection (2), shall be deemed to have ceased to have effect at the date of the acquisition.

(4) Section 72 (1) of the Registration of Title Act, 1964 (which relates to burdens that affect land without registration) is hereby amended by the insertion of:

“(r) covenants which continue in force by virtue of section 28 of the Landlord and Tenant (Ground Rents) (No. 2) Act, 1978”.

Effect of acquisition of fee simple on mortgages. [New in pt. cf. 1967, s.6 (2)]

**29.**—Upon conveyance of the fee simple in land, under this Act or otherwise, to a person whose previous interest in the land was subject to a mortgage or charge (including a mortgage by subdemise) the mortgage or charge shall, if it has not been extinguished, be deemed to be a mortgage or charge on the fee simple in the land.

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Acts Referred to

Harbours Act, 1946	1946, No. 9
Housing Act, 1966	1966, No. 21
Landlord and Tenant Act, 1931	1931, No. 55
Landlord and Tenant (Ground Rents) Act, 1967	1967, No. 3
Landlord and Tenant Law Amendment Act, Ireland, 1860	1860, c. 154
Landlord and Tenant (Reversionary Leases) Act, 1958	1958, No. 2
Registration of Title Act, 1964	1964, No. 16
Rent Restrictions Act, 1946	1946, No. 4

