

## **Leasehold Reform**

### **6.29 Leasehold Reform Act 1967**

The Leasehold Reform Act 1967 confers on tenants of houses held on "long leases" (granted for more than 21 years) at "low rents" (less than two thirds of the rateable value on the "appropriate day") the right to acquire the freehold or an extended lease. There are special provisions relating to properties having no rateable value ie leases granted after 1 April 1990.

The tenant must have occupied the property as his only or main residence for the last three years or for three out of the last ten years.

The Act has been substantially amended over the years, more recently by the Leasehold Reform, Housing and Urban Development Act 1993 and the Housing Act 1996.

Previously the house had to fall within certain rateable value limits in order to qualify for enfranchisement. The rateable value limits have now been removed although houses that had formerly been excluded due to their high rateable value are subject to a different basis of valuation for enfranchisement.

### **6.30 Leasehold Reform, Housing and Urban Development Act 1993**

This Act confers on qualifying tenants of self contained blocks of flats the right to collectively acquire the freehold. Qualifying tenants are those holding their flat under a "long lease" at a "low rent" and two thirds of the tenants must thus qualify.

Each tenant must have occupied his flat as his only or main residence for the last twelve months or for three out of the last ten years.

The notice to enfranchise must be served on the freeholder by not less than two thirds of the qualifying tenants who must comprise not less than half the flats in the building. Also not less than half the tenants by whom the notice is given must satisfy the residence qualification.

The method of calculation of the purchase price of the freehold is set out in Schedule 6 to the Act and provides for the freeholder to receive at least 50% of any marriage value.

The Act also gives an individual qualifying tenant of a flat the right to acquire an extended lease of their flat for a 90 year term at a peppercorn rent commencing at the expiry date of their current lease. The tenant must have occupied the flat as his only or main residence for the last three years or for three out of the last ten years. The right is perpetual in that a further 90 year extension of the "new"

lease may be applied for at any time. The method of calculation of the premium for the grant of the new lease is set out in Schedule 13 to the Act and again provides for the freeholder to receive at least 50% of any marriage value.

### **6.31 Effect of Notice to Treat on tenant's notice**

Where a tenant gives notice to his landlord of his desire to have the freehold or an extended lease, the provisions of s.5(6) LRA 1967 and ss. 30 and 55 LRHUD Act 1993 cause that notice to be ineffective if, before the completion of a conveyance in pursuance of that notice, notice to treat is or has been served on either landlord or tenant. Nevertheless, provided the tenant's notice is served on his landlord before the valuation date (see Section 2) the compensation payable in respect of any interest in the house is to be determined subject to and with the benefit of the rights and obligations arising from the tenant's notice as if that notice were effective.

### **6.32 No notice served by tenant or occupation less than stipulated at date of Notice to Treat**

The precise position in cases where the tenant has either not served a notice, although qualified, or has not completed the residence requirements and but for the scheme might have done so, is not clear.

It is considered that the provisions outlined above in para 6.31 do not apply in these cases and DVs should proceed accordingly. In any case where the claimant contends that the benefit of the Act should be reflected even though he has taken no positive steps himself should be referred to CEO (LS) before proceeding further with negotiations.

### **6.33 Retention or resumption of land required for public purposes**

The effect, broadly, of s.28 LRA 1967 is to enable certain public authorities which are landlords to resist enfranchisement or extension of the lease in a house, comprised in a property where a Minister of the Crown certifies that the property will within ten years be required for "relevant development" as defined in s.28(6).

A list of the authorities to which the section applies is given in s.28(5) LRA 1967 and the S of S may extend it to other authorities.

Where a Certificate under s.28(1) is given, a notice served under LRA 1967 by a tenant of such a house of his desire to have the freehold on an extended lease will, by s.28(1)(a), have no effect.

Where the tenancy has not been extended under the LRA 1967 but the tenant is entitled to acquire the freehold or an extended lease, s.28(1)(b) provides in certain circumstances for the landlord's over-riding rights under s.17 to apply as if

the tenancy had been extended. S.28(2) provides that where by virtue of s.28(1)(b) a tenancy of any property is to be treated as having been extended, then as regards that property the tenancy shall not terminate either by effluxion of time or in pursuance of any notice given by the landlord or the tenant or by the termination of a superior tenancy. One effect of s.17 is to entitle the tenant to compensation in accordance with Sch 2 when an order is made by the Court under s.17(2) entitling the landlord to possession of the house. The compensation is broadly, the market value of the leasehold interest as though it has been extended by the provisions of LRA 1967.

It is not expected that a certificate under s.28(1) will be given in respect of a house occupied by a leaseholder who has not lived there long enough to become entitled under LRA 1967, since the effect of a certificate will be to deprive him of any chance of becoming so entitled, even though the lease still has enough time to run to enable him to complete five years's residence. If the DV is called upon to advise in a case where a certificate has, nevertheless, been given in such circumstances and the matter is relevant to the valuation, he should submit particulars to CEO(LS) so that the appropriate Government Department may be consulted.

### **6.34 Application to the Crown as landlords**

The enfranchisement provisions of the LR Act 1967 and the LRHUD Act 1993 do not generally apply to land held by the Crown. However, it is the Government's intention that the crown should act in any particular case as if those Acts did apply. Crown land for these purposes includes properties held by government departments.

Enfranchisement and the grant of extended leases would be refused where the property were of special architectural or historic interest or adjoins such properties and is important in safeguarding them and their surroundings. In respect of property related to or associated with Royal Parks and Palaces enfranchisement would not be permitted although extended leases may be granted subject to estate management schemes.

Where the question of whether or not enfranchisement would be permitted in relation to Crown land has not been decided and is pertinent to the valuation, reference should be made via RD/CV(S) to CEO(LS) so that the appropriate department may be consulted