

**LANDLORD AND TENANT ACT**

**Principal Act**

<b>Act. No. 1983-49</b>	<i>Commencement date of the Act other than the provisions listed below</i>	1.7.1985
	Part IV, ss.75 and 76, Sch. 3, para 5 of Sch. 4 and Sch. 5	1.1.1986 <sup>1</sup>
	<i>Assent</i>	19.12.1983
<b>Amending enactments</b>	<b>Relevant current provisions</b>	<b>Commencement date</b>
Acts. 1985-11	ss. 16, 22(1) and (4), 23(6)(a), 26(4)(b), 29(3), 30(1), 80A, 81(b) and 82(1), Sch. 2	1.7.1985
1985-17	ss.1(2), 22 and 83	1.7.1985
1985-27	ss.62(3), 69 and Sch.5	1.1.1986
1987-22	s.33(9)	29.10.1987
1988-38	ss. 4A and 79A	15.12.1988

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<sup>1</sup> Notice of Commencement LN. 1985/124

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AN ACT TO REGULATE THE RELATIONSHIP BETWEEN LANDLORD AND TENANT, AND FOR MATTERS RELATING THERETO.

## Short title and commencement.

1.(1) This Act may be cited as the Landlord and Tenant Act.

(2) This Act, other than subsection (2) of Section 82, shall come into operation on a date to be appointed by the Governor, by notice published in the Gazette, and different days may be appointed under this subsection for different provisions; and any reference in any provision to the commencement of this Act shall be construed as a reference to the day appointed under this subsection for the coming into operation of that provision.

## PART I. PRELIMINARY PROVISIONS.

### Interpretation.

2.(1) In this Act, unless the context otherwise require—

“business” includes any business, employment, profession, or trade, and also includes any activity carried on by a club or society or body of persons, whether corporate or unincorporated;

“business premises” means premises that are used for the purposes of any business;

“communal services tenement” means a dwellinghouse that is for the time being declared by the Governor under section 9 to be a communal services tenement;

“court”, in Part IV, and Schedules 3 and 5, means the Supreme Court, but otherwise means the Court of First Instance;

“current tenancy” has the meaning assigned to it by section 45(1);

“date of termination” means the date referred to in section 44(1);

“holding”, subject to section 51, has the meaning assigned to it by section 38(2);

“landlord”, in relation to Part III, includes any person who under any lease or tenancy agreement is entitled, as between himself and the

tenant or other lessee of the premises, to the rents and profits of the demised premises that are payable under the lease or agreement;

“lease” or “tenancy agreement” includes every agreement for the letting of any premises, whether it is oral or in writing;

“let”, in relation to Part III, includes to sub-let, and “letting” includes a sub-letting;

“mortgage” includes a charge, and also includes a lien;

“net annual value” has the same meaning as it has in section 294 of the Public Health Act;

“notice to quit” means a notice to terminate a tenancy (whether it is a periodical tenancy or a tenancy for a term of years certain) that is given in accordance with the express or implied terms of the tenancy;

“ratable value”, in relation to a dwelling house—

- (a) in the case of a dwellinghouse that was first assessed on or before the commencement of this Act, means the ratable value of those premises on the commencement of this Act; and
- (b) in the case of a dwellinghouse that was first assessed after the commencement of this Act, means the ratable value of those premises on the date on which they were first assessed;

“rates” means any general rate levied under section 271 of the Public Health Act<sup>1</sup> and any 117 water rate levied under section 117 of that Act;

“recoverable rent”, in relation to a dwellinghouse, means the maximum rent that is recoverable from the tenant under this Act;

“Rent Assessor” means the Rent Assessor appointed under section 5;

“Rent Tribunal” means the Rent Tribunal established under section 7;

“statutory rent”, in relation to a tenancy of any dwellinghouse, means the statutory rent prescribed for the time being under this Act;

“tenancy”, means a tenancy that is created, either immediately or derivatively, out of—

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- (a) a tenancy held by any person from the Crown; or
- (b) an estate in fee simple—

whether by way of a lease, or of an underlease, or of an agreement for a lease or underlease or of a tenancy agreement; and also means, in relation to a dwellinghouse, a sub-tenancy; but does not mean in any case a mortgage term or any interest arising in favour of a mortgagor by his attorning tenant to his mortgagee;

“terms”, in relation to a tenancy, includes conditions.

- (2) In this Act, unless the context otherwise requires,—
  - (a) references to the granting of a tenancy and to demised property shall be construed by reference to the definition of the expression “tenancy” in subsection (1); and
  - (b) the terms “landlord”, “mortgagee” and “mortgagor” include any person from time to time deriving title under the original landlord, mortgagee or mortgagor.
- (3) For the purposes of this Act, where—
  - (a) any premises are held by a company or other body corporate as a landlord or as a tenant; and
  - (b) it is material for any purpose of this Act that such holder of the premises has transferred or assigned its interest in the premises or has ceased to occupy the premises—

then unless a court of competent jurisdiction otherwise determines, any transfer or change in the legal or beneficial ownership of any share in the company or other body corporate (other than a bona fide transfer by way of security only or on succession on death) or any change in its membership, shall constitute such a transfer, assignment or cesser of occupation, as the case requires.

## **Definition of “tenant”.**

- 3.(1) In this Act, unless the context otherwise requires, “tenant” includes —
  - (a) in every case, a sub-tenant, and any person from time to time deriving title under the original tenant; and
  - (b) in relation to Part III,—

- (i) the widower or widow of a tenant, if he or she was living with the tenant at the date of the tenant's death; and
- (ii) where the tenant leaves no widower or widow, the member (if any) of the tenant's family determined in accordance with subsections (2) and (3).

(2) For the purposes of subsection (1), the expression "the member of the tenant's family" means a son or daughter of the tenant who has lived with the tenant for not less than 12 months immediately before the tenant's death, and also means, where there are no such sons or daughters of full age at the date of the tenant's death, any other member of the family who has so lived with the tenant.

(3) Where there is more than one member of the family to whom subsection (2) applies, the expression "the member of the tenant's family" means—

- (a) the one of those members who is determined by unanimous agreement in writing between all of those members and served on the landlord within 3 months after the death of the tenant; or
- (b) where those members cannot agree unanimously within that period, the one of them who is designated as such for the purposes of subsection (1) by the court, on an application made by any of those members to it within 4 months after the death of the tenant.

(4) On the death of the tenant under a statutory tenancy (in this subsection called "the first successor") whose right to retain possession by virtue of Part III of this Act arose on the death of the person who had been the tenant under a tenancy to which that Part applied, any member of the family of the first mentioned tenant or (if more than one) the one of them determined or designated in the manner specified in subsection (3), shall be the second successor for the purposes of this section and the right to retain possession by virtue of Part III of this Act shall pass to him.

#### **Application to the Crown.**

4.(1) Subject to subsection (2), but notwithstanding any other rule of law, where there subsists or at any material time has subsisted, in relation to any dwellinghouse, an interest belonging to the Crown, those premises shall be a dwellinghouse to which Part III applies, to the same extent as they would be if no such interest had subsisted in relation to those premises.

(2) Where a tenant holds his interest as tenant, in any dwellinghouse to which Part III applies, directly from the Crown, that Part shall not apply to



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that tenant or tenancy, but nothing in this subsection shall restrict the application of Part III to any other tenant or tenancy where the other tenancy is not held directly from the Crown.

(3) Subject to Part IV and to subsection (4), Part IV shall apply to the Crown in right of the United Kingdom and in right of Gibraltar.

(4) Where a tenancy is held by or on behalf of the Crown and the property comprised in the tenancy is or includes premises occupied for any purposes of any Government department, the tenancy shall be one to which Part IV applies; and for the purposes of any provision of Part IV that is applicable only if either or both of the following conditions are satisfied, that is to say—

- (a) that any premises have during any period been occupied for the purposes of the tenant's business;
- (b) that on any change of occupier of any premises the new occupier succeeded to the business of the former occupier,—

those conditions shall be deemed to be satisfied respectively in relation to such a tenancy if, during that period, or as the case may be, immediately before and immediately after the change, the premises were occupied for the purposes of a Government department.

(5) Subsection (4) shall apply in relation to any premises provided by a Government department without any rent being payable to the Crown for the premises, as if they were occupied for the purposes of a Government department.

## **Forfeiture clauses in Crown Leases.**

4A.(1) This section applies to every tenancy where the interest of the Landlord belongs to the Crown.

(2) Notwithstanding any provisions of this Act to the contrary, where the lease creating a tenancy to which this section applies, provides for a right of entry or forfeiture for a breach by the lessee of any covenant or condition of the lease, and the lessee is in breach of such covenant or condition for a period of not less than three months,—

- (a) the provisions of section 14 of the Conveyancing and Law of Property Act 1881 (44 and 45 Vict. Ch. 41) shall not have effect, and
- (b) the right of entry or forfeiture shall be enforceable against the lessee.

**PART II.**  
ADMINISTRATION.

**Rent Assessor.**

5.(1) The Governor shall appoint a fit and proper person to be the Rent Assessor.

(2) Where there is for the time being no Rent Assessor appointed under this section, the Director of Crown Lands shall have and perform the functions, powers and duties of the Rent Assessor.

**Functions and powers of Rent Assessor.**

6.(1) The Rent Assessor shall have such functions and powers as are conferred on him by this Act.

(2) The functions and powers of the Rent Assessor shall be exercisable by him, in relation to a tenancy, on the application of the landlord or the tenant.

**Rent Tribunal.**

7.(1) There is hereby established a tribunal to be called the Rent Tribunal.

(2) The Rent Tribunal shall consist of the following members:

- (a) one person, being a person who is qualified to practice as a barrister or solicitor in Gibraltar or in the United Kingdom, who shall be appointed as chairman; and
- (b) one person, being so qualified, who shall be appointed as deputy chairman; and
- (c) 3 other persons.

(3) Each member of the Rent Tribunal shall be appointed by the Governor for a term of 3 years to be specified in the appointment, and may from time to time be reappointed, and shall be entitled to such remuneration as the Governor shall prescribe.

(4) The Governor may remove any member from office for inability, neglect of duty, insolvency or misconduct.

(5) For the purposes of hearing and determining any matter, any uneven number of members, not being fewer than 3 and including the chairman or the deputy chairman, shall constitute the Rent Tribunal.

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(6) Where for any reason the chairman is unable to sit on the Rent Tribunal in respect of any matter, the deputy chairman shall preside, and while so presiding he shall have the same standing, powers and duties as the chairman.

## **Secretary.**

8. The Governor shall appoint a public officer to be the secretary of the Rent Tribunal.

## **Communal services tenements.**

9. The Governor may from time to time, by notice in the Gazette, declare to be a communal services tenement for the purposes of this Act any dwellinghouse where—

- (a) the dwellinghouse forms part of premises let in parts as dwellinghouses; and
- (b) the tenant of the dwellinghouse shares lavatory facilities in common with other tenants of a dwellinghouse in the same premises.

## **PART III. DOMESTIC PREMISES.**

### **Application of Part III.**

10.(1) Subject to the provisions of this Act, this Part shall apply to dwellinghouses but only to the following extent, namely:

- (a) it shall apply to every dwellinghouse that has been erected on or before the 1<sup>st</sup> day of January, 1945;
- (b) it shall apply to such a dwellinghouse, whenever it is so let, if but only if it is let as a separate dwelling; and
- (c) it shall apply to every part of such a dwellinghouse that is let as a separate dwelling, as if that part were a separate dwellinghouse

and every such dwellinghouse or part of a dwellinghouse shall be deemed to be a dwellinghouse to which this Part applies.

(2) Any room in a dwellinghouse that is subject to a separate letting, wholly or partly, as a dwelling shall for the purposes of this Part be treated as a part of a dwellinghouse let as a separate dwelling.

(3) The application of this Part to a dwelling house shall not be excluded by reason only of the fact that part of the premises is used as business premises.

(4) Where any land or premises are let together with a dwellinghouse and the ratable value of the land or premises, if let separately, would be less than 25 percent of the ratable value of the dwellinghouse, if let separately, the land or premises shall for the purposes of this Part be treated as part of the dwellinghouse.

(5) Except as provided in subsection (4), this Part shall not apply to a dwellinghouse that is let together with land other than the site of the dwellinghouse.

(6) Where, in order to determine the ratable value of a dwellinghouse, it is necessary to apportion the ratable value of the property in which the dwellinghouse is comprised—

- (a) the court may on application by either party make such apportionment as it considers just; and
- (b) the decision of the court as to the amount to be apportioned to the dwellinghouse shall be final and conclusive.

### **Statutory rent.**

11.(1) Except where otherwise provided in this Act, the statutory rent of any dwellinghouse to which this Part applies shall be the rent appropriate to that dwellinghouse as calculated in accordance with Schedule 1.

(2) Notwithstanding subsection (1)—

- (a) where the Rent Assessor is satisfied, having regard to all the circumstances of the case, including the design, condition and location of the dwellinghouse, that it is reasonable to do so, he may increase or decrease the statutory rent of that dwellinghouse, as calculated in accordance with subsection (1), by not more than 25 per cent; and
- (b) where the Rent Assessor is satisfied that the landlord has, in the circumstances specified in section 19, carried out substantial repairs to a dwellinghouse (other than works described in section 13(3)) at any time before the 1st day of January, 1986, he may increase the statutory rent by not more than 40 percent of the amount of the existing statutory rent.

(3) The Rent Assessor may only exercise his powers under subsection (2) once in respect of any dwellinghouse.

## Rating adjustments.

12. Where the rates payable in respect of any dwellinghouse that is a communal services tenement are increased or decreased in relation to the rates payable for it in the year 1984, the statutory rent of the dwellinghouse shall be increased or decreased by the same amount.

## Adjustments for improvements.

13.(1) Subject to the provisions of this section, on application by the landlord, the Rent Assessor may increase the existing statutory rent of any dwellinghouse where the Rent Assessor is satisfied that the landlord has since the commencement of this Act incurred expenditure on improving or structurally altering the dwellinghouse.

(2) The Rent Assessor shall not under subsection (1) increase the statutory rent of any dwellinghouse—

- (a) by any amount exceeding the rate of 8 per cent per annum of the amount expended; or
- (b) in respect of any expenditure for which he has granted an increase under section 11(2); or
- (c) where the tenant proves that the expenditure was unnecessary and that either—
  - (i) he was the tenant at the time of the expenditure and did not consent in writing to the work; or
  - (ii) the landlord was in possession at the date of the expenditure and the tenant was the first subsequent tenant and became the tenant without notice of the nature of the works, the amount of the expenditure and the amount of the maximum increase in the statutory rent permissible because of the expenditure.

(3) Where the works have been carried out by the landlord in consequence of a notice served on him under the Public Health Act on the ground that the dwellinghouse is not in all respects reasonably fit for human habitation, or that its condition constitutes a nuisance, the Rent Assessor shall not under subsection (1) increase the statutory rent in respect of such expenditure unless, on application by the landlord, the Rent Assessor is satisfied—

- (a) that the condition of the dwellinghouse is due wholly or partly to the tenant's neglect, default or breach of express agreement; or

- (b) that for any other reason it is equitable that an increase should be made.

**Adjustments for sub-letting.**

14.(1) Where the Rent Assessor is satisfied that a dwellinghouse to which this Part applies, or any part of that dwellinghouse, is lawfully sub-let, he shall increase the statutory rent payable to the landlord by the tenant who grants the sub-letting by 50 per cent of the rent received by the tenant from the sub-letting.

- (2) An increase under subsection (1) shall have effect as long, but only as long, as the sub-tenancy continues.

**Rent payable by Gibraltarians.**

15.(1) Notwithstanding section II, but without prejudice to sections 12, 13 and 14, where a dwellinghouse to which this Part applies becomes vacant, and the Rent Assessor is satisfied that the landlord proposes to let it bona fide to a Gibraltarian for his own benefit or the benefit of another Gibraltarian, at a rent determined by agreement, the Rent Assessor may approve the transaction, and on the letting of the dwellinghouse by the landlord, in accordance with the terms of the approved transaction, the rent so determined shall be the statutory rent of the dwellinghouse.

- (2) An increase under subsection (1) shall have effect only so long as the dwellinghouse continues to be occupied by—

- (a) the person to whom, or for whose benefit, the landlord has proposed under subsection (1) to let it; or
- (b) any member of his family who succeeds him as the tenant under subsections (1)(b), (2), (3) and (4) of section 3.

- (3) Any agreement made under this section shall be rescinded where the statutory rent as calculated under Schedule 1 exceeds the statutory rent agreed to by the parties under this section and substituted by the statutory rent as calculated under Schedule 1.

16. *Revoked*

**Restrictions on rent increases.**

17.(1) Notwithstanding any agreement to the contrary, where a landlord desires to increase the rent payable by a tenant in respect of a tenancy of a dwellinghouse to which this Part applies—

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- (a) the landlord shall first give notice of his intention to do so to the tenant; and
- (b) no such increase shall be due or recoverable until or in respect of any period prior to the expiration of 3 months after the date of the service of the notice on the tenant.

(2) Notwithstanding subsection (1), where an increase is permitted under section 14 (which relates to sub-lettings), the increase shall be due and recoverable as from the date of the sub-letting.

(3) Notwithstanding subsection (1), where an increase is permitted under section 12 (which relates to rates) only 2 weeks' notice of the landlord's intention shall be required.

### **Restrictions on recovery of possession.**

18.(1) No order or judgment for the recovery of possession of any dwellinghouse to which this Part applies or for the ejection of a tenant therefrom shall be made or given, unless the court considers it reasonable to make such an order or give such a judgment and either—

- (a) the court has power so to do under the provisions of Schedule 2; or
- (b) the court is satisfied that suitable alternative accommodation is available for the tenant or will be available for him when the order or judgment takes effect.

(2) A certificate issued by the Rent Assessor, certifying that suitable alternative accommodation is available for the tenant by a date specified in the certificate, shall be conclusive evidence that suitable accommodation will be available for him by that date.

(3) Where no such certificate is produced to the court, accommodation shall be suitable if—

- (a) it consists either—
  - (i) of a dwellinghouse to which this Part applies; or
  - (ii) of premises to be let as a separate dwelling on terms which will, in the opinion of the court, afford to the tenant security of tenure reasonably equivalent to the security afforded by this Part in the case of dwellinghouses to which this Part applies; and
- (b) it is, in the opinion of the court either—

- (i) similar, as regards the rental and extent to the accommodation afforded by dwellinghouses provided by the Government for persons whose needs as regards extent are, in the opinion of the court, similar to those of the tenant and his family; or
  - (ii) otherwise reasonably suitable to the means of the tenant and to the needs of the tenant and his family as regards extent and character.
- (4) For the purposes of subsection (3), a certificate of the Rent Assessor stating—
- (a) the extent of the accommodation afforded by dwellinghouses provided by the Government to meet the needs of tenants with families of such numbers as may be specified in the certificate; and
  - (b) the amount of the rents charged by the Government affording accommodation of that extent—

shall be conclusive evidence of the facts so stated.

- (5) Where—
- (a) an application is made for an order or judgment for recovery of possession of a dwellinghouse to which this Part applies; or
  - (b) any such order or judgment is made or given; or
  - (c) an order or judgment for the ejectment of a tenant from any such dwellinghouse is given or made—

the court at any time before execution of the order or judgment (whether or not the application, order or judgment has been made before or after the commencement of this Act) may adjourn the application, or stay or suspend execution on the order or judgment, or postpone the date of possession for such period or periods as it thinks fit, subject to such conditions (if any) in regard to payment by the tenant of any arrears of rent, rates, or mesne profits, and subject to such other conditions (if any) as the court thinks fit, and, if those conditions are complied with, the court may, if it thinks fit, discharge or rescind any such order or judgment.

- (6) Where—
- (a) any order or judgment has been made or given before the date of commencement of the Act but not executed; and



- (b) in the opinion of the court, the order or judgment would not have been made or given if this Part had been in force at the time when the order or judgment was made or given—

the court may, on application by the tenant, rescind or vary the order or judgment in such manner as the court thinks fit for the purpose of giving effect to this Part.

(7) Notwithstanding any provision to the contrary in the Supreme Court Act,—

- (a) every warrant for delivery of possession of any dwellinghouse to which this Part applies; and
- (b) every warrant to enter and give possession of any such dwellinghouse,

shall remain in force for 3 months from the day next after the last day named in the order or judgment for delivery of possession or ejection and for such further period or periods, if any, as the court may from time to time (whether before or after the expiration of that period of 3 months) direct.

(8) Where a dwellinghouse or any part of a dwellinghouse to which this Part applies has been lawfully sub-let by the tenant to a sub-tenant before proceedings for recovery of possession or ejection are commenced against the tenant, no order or judgment on those proceedings against the tenant shall affect any right of the sub-tenant to retain possession under this section or in any other way operate against the sub-tenant.

(9) Where a landlord has obtained an order or judgment for possession or ejection under this section on any of the grounds specified in paragraphs (f) and (g) of Schedule 2 and it subsequently appears to the court that the order or judgment was obtained by misrepresentation or the concealment of material facts, the court may order the landlord to pay the former tenant such sum as appears sufficient as compensation for damage or loss sustained by that tenant as the result of the order or judgment.

(10) Notwithstanding anything to the contrary in the original contract of tenancy, or in any other provision in this Part, a landlord who obtains an order or judgment for the recovery of possession of a dwellinghouse to which this Part applies, or for the ejection of the tenant, shall not be required to give any notice to quit to the tenant.

### **Temporary repossession to carry out repairs.**

19.(1) Notwithstanding any other provision in this Act, Where—

- (a) a court has ordered the landlord of a dwellinghouse to which this Part applies to carry out any repairs to the dwellinghouse; and
- (b) it is necessary, in order to carry out the repairs, for the landlord to occupy temporarily any part of it that is in the possession of the tenant; and
- (c) the court is satisfied that suitable temporary accommodation is available for the tenant, at a rent not in excess of that being currently paid by the tenant, while the repairs are carried out, or will be so available when any order made under this subsection takes effect—

the court may make an order requiring the tenant to vacate the dwellinghouse temporarily in order that the repairs may be carried out by the landlord.

(2) An order under subsection (1) may be made against any sub-tenant of the dwellinghouse or of any part of it to which this Part applies in the same manner as it may be made against the tenant.

(3) An order under subsection (1) shall not terminate the tenancy of any tenant or the sub-tenancy of any sub-tenant.

(4) Where the landlord fails, within such time as the court thinks reasonable after the making of an order under subsection (1), to carry out the repairs to which the order relates, the court may on the application of the tenant or of any sub-tenant—

- (a) order the landlord to withdraw from temporary occupation of the dwellinghouse, or of any sub-let part of it, within such period as the court specifies; or
- (b) make such other order as the court thinks just.

(5) A landlord who fails to comply with an order made against him under subsection (4) shall be liable to attachment.

#### **Acceptance of rent after notice to quit.**

20. Where the landlord of a dwellinghouse to which this Part applies has served a notice to quit on a tenant, the landlord may accept rent from the tenant for any period, not exceeding 3 months from the expiry of the notice, without prejudicing his right to possession of the premises.

#### **Restrictions on distraint.**

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21.(1) No person may levy distress for the recovery of any rent for a dwellinghouse to which this Part applies, without the leave of the court.

(2) On an application for leave under subsection (1), the court shall have the same powers of adjournment, stay, suspension, postponement, imposition of conditions, discharge, rescission and variation as it has under section 18 on applications for the recovery of possession.

### **Reference to Tribunal for decontrol of premises.**

22.(1) Where, on application by the landlord of a dwellinghouse to which this Part applies, the Rent Tribunal is satisfied that –

- (a) structural alterations have been carried out, or are to be carried out, to the dwellinghouse on or after the commencement of this Act; and
- (b) the bona fide effect of the structural alterations is or will be, when carried out, to reconstruct the dwellinghouse either –
  - (i) into a unit that is the same or larger than before the alterations; or
  - (ii) into 2 or more separate, self-contained flats; and
- (c) the structural alterations do not or will not, when they are carried out, have the effect of decreasing the overall housing stock; and
- (d) no undue hardship will be caused to any tenant of the dwellinghouse by the structural alterations –

the Rent Tribunal may make an order declaring that this Part shall not apply to the dwellinghouse or to any separate and self-contained units resulting from the structural alterations.

(2) Subject to subsection (3), an order under this section shall have effect from the date, as determined by the Rent Tribunal, on which the structural alterations were completed.

(3) Where an order is made under this section in respect of any structural alterations that are to be carried out, the order shall have effect from the date on which the structural alterations are completed, as certified by the Director of Crown Lands.

(4) When an order made under this section comes into effect, the premises to which it relates shall thereupon cease to be a dwellinghouse or dwellinghouses to which this Part applies.

**Restrictions on sub-letting.**

23.(1) No tenant of a dwellinghouse to which this Part applies shall, without first obtaining the consent of the landlord, sub-let any part of the dwellinghouse.

(2) The landlord's consent to the sub-letting shall not be unreasonably withheld.

(3) A tenant who contravenes subsection (1) is guilty of an offence and is liable on summary conviction to a fine of £100.

(4) It shall be a defence to a charge under subsection (3) if the tenant proves that the landlord's consent to the sub-letting to which the charge relates is unreasonably withheld.

(5) Where—

(a) the tenant of a dwellinghouse to which this Part applies sub-lets any part of the dwellinghouse; and

(b) the sub-let part is also a dwellinghouse to which this Part applies—

the tenant shall within 14 days after the sub-letting commences, supply to the landlord a statement in writing, in the prescribed form, specifying the particulars of the sub-letting.

(6) A tenant who without reasonable excuse—

(a) fails to comply with subsection (5); or

(b) supplies under that subsection a statement that is false in any material particular—

is guilty of an offence and is liable on summary conviction to a fine of £100.

(7) The provisions of this section shall be without prejudice to any other provision in this Act relating to sub-letting.

**Recovery of increased rent where premises unlawfully sub-let.**

24.(1) Where the tenant of a dwellinghouse to which this Part applies—

(a) has (whether before or after the commencement of this Act), sub-let any part of the dwellinghouse; and

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- (b) has not notified the landlord of the subletting in accordance with section 23(5) –

the statutory rent shall be deemed to have been increased at the date on which the sub-tenancy took effect or at the date of commencement of this Act (whichever is the later date) by an amount by which the landlord would under section 14 be entitled to increase the rent.

(2) Subject to subsection (3), the amount of the increase shall be due and recoverable by the landlord from the tenant.

(3) No amount shall be recoverable under this section in respect of any period exceeding 6 months.

### **Recovery of premises sub-let at excessive rent.**

25.(1) Where, in any proceedings, it appears to the court either–

- (a) that no apportionment of the statutory rent has been made as between the dwellinghouse and the part sub-let; or
- (b) that no determination of the recoverable rent of the sub-let part has been made–

the court shall make the apportionment or determination, whether or not it makes or gives an order or judgment for recovery of possession or ejection.

(2) Where–

- (a) the statutory rent has been apportioned (under subsection (1) or otherwise) as between the dwellinghouse and the part sub-let, or the recoverable rent for the sub-let part has been determined (under subsection (1) or otherwise); and
- (b) the tenant thereafter (at a date after the commencement of this Act.) charges for the sub-let part a rent that exceeds the recoverable rent for that Part–

the tenant is guilty of an offence and is liable on summary conviction to a fine of £100.

(3) It shall be a defence to a charge under subsection (2) if the tenant proves that–

- (a) he did not at any material time know the recoverable rent of the part sub-let; and

- (b) he could not by reasonably inquiry have ascertained the recoverable rent; and
- (c) the charging of the excess rent was the result only of accidental miscalculation.

**Sub-tenant's option to take surrendered tenancy.**

26.(1) Where—

- (a) a tenant of a dwellinghouse to which this Part applies has lawfully sub-let any part of the dwellinghouse; and
- (b) the sub-let part is also a dwellinghouse to which this Part applies; and
- (c) the tenant has surrendered his tenancy—

the sub-tenant shall have the first option, exercisable in accordance with subsection (2), to take over the surrendered tenancy.

(2) Before re-letting the dwellinghouse the tenancy of which has been surrendered, the landlord shall serve notice in writing in the prescribed form on the sub-tenant of the surrender of the tenancy and the sub-tenant shall, if he wishes to do so, exercise the option in writing served on the landlord within 14 days after the landlord serves the notice under subsection (1) on him.

(3) Where there is more than one sub-tenant to whom subsection (1) refers, —

- (a) the landlord shall serve notice under subsection (1) on every such sub-tenant; and
- (b) if more than one sub-tenant exercises his option under subsection (2), the court shall in the absence of agreement between the landlord and the sub-tenants determine which sub-tenant shall become the tenant; and
- (c) each sub-tenant who exercises his option shall be jointly and severally liable, with every other sub-tenant who exercises his option, to the landlord for the payment of the statutory rent for the tenancy for the period from the date of its surrender until the date of the agreement or determination.

(4) Notwithstanding any other provision in this section, where the Rent Tribunal is satisfied, on the application of the landlord, that he requires the dwellinghouse for occupation as a residence for—

- (a) himself; or
- (b) any son or daughter of himself or of his wife who is over the age of 18 years—

no option shall be exercisable under this section by a sub-tenant and any option exercised before the making of an application under this section shall be of no effect.

### **Conditions of statutory tenancies.**

27.(1) Where a tenant by virtue of this Part retains possession of any dwellinghouse to which this Part applies—

- (a) he shall, so long as he does so, observe and be entitled to the benefit of all the terms and conditions of the original contract of tenancy, to the extent that they are consistent with this Part; and
- (b) he may only give up possession (unless the landlord otherwise agrees) on giving such notice as he is required to give for that purpose under the original contract of tenancy; and
- (c) he shall not, as a condition of giving up possession, ask or receive the payment of any consideration by any person other than the landlord; and
- (d) where, as a condition of giving up possession, he requires that any furniture or other article shall be purchased,—
  - (i) he shall state the price he demands, if he is requested to do so by the person of whom the demand is made; and
  - (ii) he shall not demand or accept a price exceeding the reasonable price of the furniture or article.

(2) A tenant who contravenes paragraph (c) or paragraph (d) of subsection (1) is guilty of an offence and is liable on summary conviction to a fine of £100.

(3) Where a tenant is convicted of an offence against subsection (2), the court by whom he is convicted may, in lieu of any other method of recovery under this Act, order him to repay to the person from whom he has received it—

- (a) the value of any consideration referred to in paragraph (c) of subsection (1); or

- (b) the amount by which the price of any furniture or other article referred to in paragraph (d) of subsection (1) exceeds its reasonable price—

as the case requires.

(4) In every tenancy of a dwellinghouse to which this Part applies, the following conditions shall apply:

- (a) the landlord shall insure the dwellinghouse (but not its contents) against loss or damage by fire; and where fire destroys the dwellinghouse, and the landlord rebuilds it, the tenant shall be entitled to the first option to take a tenancy of the rebuilt dwellinghouse, which option shall be exercisable within one month after the landlord notifies the tenant that the dwellinghouse has been rebuilt:
- (b) the landlord shall be liable to maintain all permanent electrical installations in good repair:
- (c) the tenant shall, subject to paragraph (b), be liable to maintain all interior fixtures and fittings in good repair, except for fair wear and tear:
- (d) the tenant shall allow the landlord access to the dwellinghouse and all reasonable facilities in order to carry out any repairs that the landlord is entitled or obliged to carry out.

(5) Nothing in paragraph (b) or paragraph (c) of subsection (4) shall relieve any person from liability for negligence.

#### **Statement as to statutory rent.**

28. A landlord of any dwellinghouse to which this Part applies shall, on being so requested in writing by the tenant of the dwellinghouse, supply him with a statement in writing as to what is the statutory rent of the dwellinghouse, and if, without reasonable excuse, he either fails within 14 days to do so, or supplies a statement which is false in any material particular, he is liable on summary conviction to a fine of £500.

#### **Rent books.**

29.(1) The landlord of a dwellinghouse to which this Part applies shall—

- (a) provide a rent book to the tenant; and
- (b) produce a copy of the rent book to the Rent Assessor at the request of the Rent Assessor.



(2) The landlord shall insert and maintain in the rent book and the copy the prescribed particulars in respect of the tenancy.

(3) If the landlord fails to comply with any of the requirements of this section, he, and any person who on his behalf demands or receives rent in respect of the dwellinghouse, is, in respect of each week in which the failure occurs or continues, guilty of an offence and is liable on summary conviction to a fine of £10.

(4) If—

- (a) any person in any rent book or similar document makes an entry showing or purporting to show any tenant as being in arrear in respect of any sum which by virtue of this Part is irrecoverable; or
- (b) where any such entry has been made by or on behalf of any landlord, if the landlord on being requested by or on behalf of the tenant so to do, refuses or neglects to cause the entry to be deleted within 7 days—

that person is guilty of an offence and is liable on summary conviction to a fine of £500.

(5) It shall be defence to a charge under subsection (4) that the defendant believed bona fide that the rent was recoverable.

## **Reference to Tribunal to determine rent.**

30.(1) Where any contract, other than a contract of tenancy to which section 15 applies, has, whether before or after the commencement of this Part, been entered into whereby a dwellinghouse to which this Part applies has been let, then subject to the provisions of this section, the landlord or the tenant may in the prescribed form apply to the Rent Tribunal to determine—

- (a) what is the correct amount of the statutory rent payable in respect of the dwellinghouse under this Part; and
- (b) whether and to what extent the amount of the statutory rent as so determined may be increased or decreased in accordance with this Part.

(2) The Rent Tribunal shall not be required to entertain an application under this section if it is satisfied, having regard to the length of time that has elapsed since any previous application made by the same party and to any other circumstances, that the application is frivolous or vexatious.

(3) On hearing an application under this section, the Rent Tribunal shall determine the statutory rent of the dwellinghouse to which the application relates in accordance with the criteria laid down in this Part.

(4) In any proceedings before the Rent Tribunal under this section, where the landlord and the tenant are in dispute as to the amount of the statutory rent for the dwellinghouse to which the application relates, the onus shall be on the landlord to prove the correct amount of the statutory rent.

(5) Where the Rent Tribunal determines the statutory rent in respect of any dwellinghouse under this section, that rent shall be the statutory rent for the dwellinghouse as at the date at which it is to be determined.

#### **Recovery of rent.**

31.(1) Notwithstanding any agreement to the contrary, where the rent of any dwellinghouse to which this Part applies exceeds the rent that is for the time being permitted under this Part, the amount of the excess shall be irrecoverable from the tenant.

(2) Where any sum has been paid on account of any rent, being a sum which is under this Part irrecoverable from the tenant, the sum so paid shall be recoverable from the landlord who received the payment or from his legal personal representative, and any such sum may, without prejudice to any other method of recovery, be deducted by the tenant from any rent payable by him to the landlord.

(3) Any sum paid by a tenant which under subsection (1) is recoverable by the tenant shall be recoverable at any time within 6 months from the date of payment, but not afterwards.

#### **Limitation on rent for furnished dwellinghouses.**

32.(1) Where before or after the commencement of this Act,—

- (a) a person lets or has let a dwellinghouse that has been erected on or before the 1st day of January, 1954 (not being a dwellinghouse to which this Part, other than this section, applies); and
- (b) the rent for the letting includes payment for the use of furniture; and
- (c) the court is satisfied, on an application made by the tenant, that the rent charged is yielding or will yield to the person letting the dwellinghouse, as so furnished, a profit that exceeds the profit

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that might reasonably be expected from a similar letting in the year ending with the 31st day of December, 1983,

the court may order that the rent, so far as it exceeds that profit,—

- (i) shall be irrecoverable; and
  - (ii) shall be repaid by the landlord to the tenant.
- (2) Where after the commencement of this Act—
- (a) any person lets a dwellinghouse in the circumstances described in subsection (1); and
  - (b) in all the circumstances of the case, the rent charged yields the landlord a profit that is extortionate—

the landlord is guilty of an offence and is liable on summary conviction to a fine £1000.

(3) The fact that a landlord is convicted of an offence under subsection (2) shall not limit the rights of the tenant under subsection (1) in relation to the landlord.

(4) The provisions of paragraphs (b) and (c) of subsection (1) of section 10, and subsections (2) to (6) inclusive of that section, shall apply to dwellinghouses to which this section refers in the same way as they apply to other dwellinghouses to which this Part applies.

## **Premiums.**

33.(1) Subject to the provisions of this section, a person shall not as a condition of the grant, renewal or continuance of a tenancy of a dwellinghouse to which this Part applies, require the payment of any premium in addition to the rent.

(2) Subject to the provisions of this section, a person shall not as a condition of the assignment of a tenancy of a dwellinghouse to which this Part applies requires the payment of any premium.

(3) Notwithstanding the provisions of subsection (1), a grantor of a tenancy, the rent payable under the terms of which includes payment in respect of the use of furniture may require—

- (a) that there shall be paid to the grantor so much of the outgoings discharged by him as is referable to any period after the grant takes place; or

- (b) that there shall be paid to the grantor a reasonable amount in respect of goodwill of a business, trade or profession, being goodwill transferred to the grantor in connection with the grant or accruing to him in consequence thereof.
- (4) Notwithstanding the provisions of subsection (2), an assignor of a tenancy may, if apart from this section he would be entitled so to do, require payment by the assignee—
- (a) of so much of the outgoings discharged by the assignor as is referable to any period after the assignment takes effect;
  - (b) of a sum not exceeding the amount of any expenditure reasonably incurred by the assignor in carrying out any structural alteration of the dwellinghouse or in providing or improving fixtures therein, being fixtures which as against the landlord he is not entitled to remove;
  - (c) where the assignor became a tenant of the dwellinghouse by virtue of an assignment of the tenancy thereof, of a sum not exceeding any reasonable amount paid by him to his assignor in respect of expenditure incurred by that assignor, or by any previous assignor of the tenancy, in carrying out such alteration or in providing or improving any fixtures as mentioned in paragraph (b); or
  - (d) where part of the dwellinghouse is used as business premises, of a reasonable amount in respect of goodwill of the business, being goodwill transferred to the assignee in connection with the assignment or accruing to him in consequence thereof.
- (5) Where after the date of commencement of this Part, any premium has been paid which, or the whole of which, could not lawfully be required under this section, the amount of the premium or so much of it as could not lawfully be required or have been required, as the case may be, shall be irrecoverable by the person by whom it was paid.
- (6) A person requiring any premium in contravention of this section is guilty of an offence and is liable on summary conviction to a fine of £1000, and the court by which he is convicted may order the amount of the premium, or so much of it as cannot lawfully be required under this section, to be repaid to the person by whom it was paid.
- (7) Nothing in this section shall render any amount recoverable more than once.
- (8) Where the purchase of any furniture or other articles is required as a condition of the grant, renewal, or continuance of a tenancy or sub-tenancy

of a dwellinghouse to which this Part applies, the price demanded shall, at the request of the person on whom the demand is made, be stated in writing, and, if the price exceeds the reasonable price of the articles, the excess shall be treated as if it were a fine or premium required to be paid as a condition of the grant, renewal, or continuance, and the provisions of this section, including penal provisions, shall apply accordingly.

(9) *Repealed.*

## **Power of court to determine questions of rent.**

34. The court shall have power on the application of a landlord or tenant to determine summarily any question as to the amount of the statutory rent or the recoverable rent of a dwellinghouse to which this Part applies.

## **Rent relief.**

35.(1) A tenant of any dwelling-house to which this Part applies, may apply to the Housing Manager in the prescribed form for rent relief and –

- (a) if the Housing Manager is satisfied that the tenant is so entitled in accordance with the prescribed conditions, the Housing Manager may direct that so much of the rent payable by the tenant in respect of the dwellinghouse as may be allowed by virtue of any regulations made for that purpose, shall be paid out of the Consolidation Fund on behalf of the tenant; or
- (b) if the Housing Manager is not so satisfied but satisfied that, nevertheless, the applicant has prima facie a case for determination by the Rent Tribunal under this paragraph, he shall refer the matter to the Rent Tribunal who may if it thinks fit, being satisfied that the tenant is suffering particular hardship in paying the amount of the recoverable rent of the dwellinghouse, order the Housing Manager to direct that so much of that rent as the Rent Tribunal may determine shall be paid out of the Consolidation Fund on behalf of the tenant for such period and subject to such conditions as the Rent Tribunal may impose:

Provided that the Rent Tribunal shall not in any case order the Housing Manager to direct the payment out of the Consolidation Fund under this paragraph of any amount in excess of such amount as may be prescribed.

(2) Any payment made out of the Consolidated Fund under the provisions of this section shall be paid directly to the landlord.

(3) Where any payment is made to a landlord under this section in respect of the tenancy of any dwellinghouse the maximum amount of rent

recovered by the landlord from the tenant in respect of whose tenancy the payment is made shall be the maximum amount permitted for such dwellinghouse under this Part less the amount of any such payment.

(4) Any person considering himself aggrieved by the decision of the Housing Manager as to his entitlement to receive relief under this section or as to the amount of such relief allowed by the Housing Manager may within 14 days of receipt of the decision appeal to the Rent Tribunal.

(5) On hearing the appeal, the Rent Tribunal may, subject to the prescribed terms and conditions, confirm or vary the assessment of the Housing Manager.

#### **Jurisdiction to grant possession.**

36. Notwithstanding the provisions of section 13 of the Court of First Instance Act, the court shall have jurisdiction to hear and determine any action for the recovery of possession of a dwellinghouse to which this Part applies.

### **PART IV. BUSINESS PREMISES.**

#### **Meaning of “landlord” in Part IV.**

37.(1) Subject to subsection (2), in this Part the expression “the landlord”, in relation to a tenancy (in this section referred to as “the relevant tenancy”), means the person (whether or not he is the immediate landlord) who is the owner of that interest in the property comprised in the relevant tenancy which for the time being fulfils the following conditions, that is to say—

- (a) that it is an interest in reversion expectant (whether immediately or not) on the termination of the relevant tenancy; and
- (b) that it is either the fee simple or a tenancy which will not come to an end within 14 months or less by effluxion of time or by virtue of a notice to quit already given by the landlord—

and is not itself in reversion expectant (whether immediately or not) on an interest which fulfils those conditions.

(2) References in this Part to a notice to quit given by the landlord are references to a notice to quit given by the immediate landlord.

(3) The provisions of Schedule 3 shall have effect for the application of this Part to cases where the immediate landlord of the tenant is not the owner of the fee simple in respect of the holding.

## Tenancies to which Part IV applies.

38.(1) Subject to the provisions of this Act, this Part applies to any tenancy where the property comprised in the tenancy is or includes premises that are occupied by the tenant and are so occupied for the purposes of a business carried on by him or for those and other purposes.

(2) In this Part the expression “the holding”, in relation to a tenancy to which this Part applies, means the property comprised in the tenancy, excluding any part that is not occupied either by—

- (a) the tenant; or
- (b) a person who—
  - (i) is employed by the tenant; and
  - (ii) is so employed for the purposes of a business by reason of which the tenancy is one to which this Part applies.

(3) Where the tenant is carrying on a business, in the whole or in any part of the property comprised in the tenancy, in breach of a prohibition (however expressed) of use for business purposes or a specified business or a business other than a specified business which subsists under the terms of the tenancy and extends to the whole of that property, this Part shall not apply to the tenancy unless the immediate landlord or his predecessor in title has consented to the breach or the immediate landlord has acquiesced in the breach.

(4) In subsection (3), the reference to a prohibition of use for business purposes does not include a prohibition—

- (a) of use for the purposes of a specified business; or
- (b) of use for purposes of any business other than a specific business—

but otherwise does include a prohibition of use for the purpose of one or more only of the classes of business specified in the definition of that expression in section 2.

## Register of tenancies of business premises.

39.(1) There shall be a register of tenancies of business premises, which shall be kept in the prescribed form by the Rent Assessor.

(2) The Rent Assessor shall enter in the register the details of any tenancy that is required to be registered under this section.

(3) Every tenancy to which this Part applies, being a tenancy that has commenced on or before the commencement of this Act, shall be registered by the landlord in the prescribed manner within 3 months after the commencement of this Act.

(4) Every tenancy to which this Part applies, being a tenancy that commences after the commencement of this Act, shall be registered by the landlord in the prescribed manner, within 3 months of the commencement of the tenancy.

(5) Where during the period of any tenancy that is to be registered under this section, any change occurs in the particulars of the tenancy (being prescribed particulars), the landlord shall within one month of the date of the change notify the Rent Assessor in writing of the change, and the Rent Assessor shall amend the register accordingly.

(6) In this section, the commencement of a tenancy includes any renewal of a tenancy.

(7) The register shall be open to inspection by any member of the public on payment of the prescribed fee.

**Production of register.**

40. If any court of law or the Rent Tribunal so requires, the Rent Assessor—

- (a) shall make the register available to the court or Tribunal; or
- (b) supply to the court or Tribunal such details from the register as the court or Tribunal may require.

**Rent Assessor may require information.**

41.(1) The Rent Assessor may in writing require any landlord or tenant to provide any information that is required for the purposes of section 39.

(2) Where any information is provided to the Rent Assessor pursuant to a requirement under subsection (1), he shall enter it in the register,

**Offences relating to register.**

42. Any person who—

- (a) fails to comply with any requirement imposed on him by any of subsections (3), (4), and (5) of section 39; or



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- (b) for the purposes of or in connection with the registration of a tenancy, or having been required under section 41 to provide any information, knowingly provides any information that is untrue in any material particular—

is guilty of an offence and is liable on summary conviction to a fine of £500, and in the case of a continuing offence to a further fine £10, for every day on which the offence has continued.

## **Continuation of tenancies to which Part IV applies and grant of new tenancies.**

43.(1) A tenancy to which this Part applies shall not come to an end unless terminated in accordance with the provisions of this Part; and, subject to section 48, the tenant under such a tenancy may apply to the court for a new tenancy—

- (a) if the landlord has given notice under section 44 to terminate the tenancy; or
- (b) if the tenant has made a request for a new tenancy in accordance with section 45.

(2) Subsection (1) shall not prevent the coming to an end of a tenancy by notice to quit given by the tenant, by surrender or forfeiture, or by the forfeiture of a superior tenancy.

(3) Notwithstanding subsection (1)—

- (a) where a tenancy to which this Part applies ceases to be such a tenancy, it shall not come to an end by reason only of the cesser, but if it was granted for a term of years certain and has been continued by subsection (1) then (without prejudice to its termination in accordance with any terms of the tenancy) it may be terminated by not less than 6 nor more than 12 months, notice in writing given by the landlord to the tenant;
- (b) where, at a time when a tenancy is not one to which this Part applies, the landlord gives notice to quit, the operation of the notice shall not be affected by reason that the tenancy becomes one to which this Part applies after the giving of the notice.

## **Termination of tenancy by landlords.**

44.(1) Subject to section 77, the landlord may terminate a tenancy to which this Part applies by a notice given to the tenant in the prescribed form specifying the date of termination.

(2) Subject to subsection (3), a notice under this section shall not have effect unless it is given within the appropriate time specified in Schedule 5.

(3) In the case of a tenancy which apart from this Act could have been brought to an end by notice to quit given by the landlord—

(a) the date of termination specified in a notice under this section shall not be earlier than the earliest date on which, apart from this Part, the tenancy could have been brought to an end by notice to quit given by the landlord on the date of the giving of the notice under this section; and

(b) where apart from this Part more than 6 months', notice to quit would have been required to bring the tenancy to an end, subsection (2) shall have effect with the substitution for the maximum period of notice permitted under Schedule 5 of a period 6 months longer than the length of notice to quit which would have been so required.

(4) In the case of any other tenancy, a notice under this section shall not specify a date of termination earlier than the date on which, apart from this Part, the tenancy would have come to an end by effluxion of time.

(5) A notice under this section shall not have effect unless it requires the tenant, within 2 months after the giving of the notice, to notify the landlord in writing whether or not, at the date of termination, the tenant will be willing to give up possession of the property comprised in the tenancy.

(6) A notice under this section shall not have effect unless it states whether the landlord would oppose an application to the court under this Part for the grant of a new tenancy and, if so, also states on which of the grounds mentioned in section 49 he would do so.

#### **Tenant's request for a new tenancy.**

45.(1) A tenant's request for a new tenancy may be made where the tenancy under which he holds for the time being (hereinafter referred to as "the current tenancy") is a tenancy granted for a term of years certain exceeding one year, whether or not continued by section 43, or granted for a term of years certain and thereafter from year to year.

(2) A tenant's request for a new tenancy shall be for a tenancy beginning with such date, being not more than 12 nor less than 6 months after the making of the request, as may be specified in the request.

(3) The date referred to in subsection (2) shall not be earlier than the date on which apart from this Act the current tenancy would come to an end

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by effluxion of time or could be brought to an end by notice to quit given by the tenant.

(4) A tenant's request for a new tenancy shall not have effect unless it is made by a notice in the prescribed form given to the landlord and setting out the tenant's proposals as to the property to be comprised in the new tenancy (being either the whole or part of the property comprised in the current tenancy), as to the rent to be payable under the new tenancy and as to the other terms of the new tenancy.

(5) A tenant's request for a new tenancy shall not be made if the landlord has already given notice under section 44 to terminate the current tenancy, or if the tenant has already given notice to quit or notice under section 46; and no such notice shall be given by the landlord or the tenant after the making by the tenant of a request for a new tenancy.

(6) Where the tenant makes a request for a new tenancy in accordance with the foregoing provisions of this section, the current tenancy shall, subject to the provisions of subsection (2) of section 55 and the provisions of section 77 as to the interim continuation of tenancies, terminate immediately before the date specified in the request for the beginning of the new tenancy.

(7) Within 2 months of the making of a tenant's request for a new tenancy the landlord may give notice to the tenant that he will oppose an application to the court for the grant of a new tenancy, and any such notice shall state on which of the grounds mentioned in section 49 the landlord will oppose the application.

## **Termination by tenant of tenancy for fixed term.**

46.(1) Where the tenant under a tenancy to which this Part applies, being a tenancy granted for a term of years certain, gives to the immediate landlord, not later than 3 months before the date on which apart from this Act the tenancy would come to an end by effluxion of time, a notice in writing that the tenant does not desire the tenancy to be continued, section 43 shall not have effect in relation to the tenancy.

(2) A tenancy granted for a term of years certain which is continuing by virtue of section 43 may be brought to an end on any quarter day by not less than 3 months' notice in writing given by the tenant to the immediate landlord, whether the notice is given before or after the date on which apart from this Act the tenancy would have come to an end.

## **Renewal of tenancies by agreement.**

47. Where the landlord and tenant agree for the grant to the tenant of a future tenancy of the holding, or of the holding with other land, on terms and

from a date specified in the agreement, the current tenancy shall continue until that date but no longer, and shall not be a tenancy to which this Part applies.

**Order by court for grant of a new tenancy.**

48.(1) Subject to the provisions of this Act, on an application under section 43(1) for a new tenancy the court shall make an order for the grant of a tenancy comprising such property, at such rent and on such other terms, as are hereinafter provided.

(2) Where such an application is made in consequence of a notice given by the landlord under section 44, it shall not be entertained unless the tenant has duly notified the landlord that he will not be willing at the date of termination to give up possession of the property comprised in the tenancy.

(3) No application under section 43(1) shall be entertained unless it is made not less than 2 nor more than 4 months after the giving of the landlord's notice under section 44, or, as the case may be, after the making of the tenant's request for a new tenancy.

**Opposition by landlord to grant of new tenancy.**

49.(1) The grounds on which a landlord may oppose an application under section 43(1) are such of the following grounds as may be stated in the landlord's notice under section 44, or, as the case may be, under section 45(7) that is to say—

- (a) where under the current tenancy, the tenant has any obligations as respects the repair and maintenance of the holding, that the tenant ought not to be granted a new tenancy in view of the state of repair of the holding, being a state resulting from the tenant's failure to comply with those obligations;
- (b) that the tenant ought not to be granted a new tenancy in view of his persistent delay in paying rent which has become due;
- (c) that the tenant ought not to be granted a new tenancy in view of other substantial breaches by him of his obligations under the current tenancy, or for any other reason connected with the tenant's use or management of the holding;
- (d) that on the termination of the current tenancy, the landlord intends to develop the premises comprised in the holding or a substantial part of those premises and, in order to do so—
  - (i) it is necessary to demolish or reconstruct or to carry out substantial works on the premises; and

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- (ii) it is not reasonably possible to do so without the landlord obtaining possession of the holding;
- (e) that on the termination of the current tenancy, the landlord intends to occupy the holding for the purposes of a business to be carried on by him in it or as his residence.

(2) The landlord shall not be entitled to oppose an application on any ground specified in paragraph (d) or paragraph (e) of subsection (1) unless the interest of the landlord, or an interest that has merged in that interest and but for the merger would be the interest of that landlord, was purchased or created before the beginning of the period of 5 years that ends with the termination of the current tenancy, and at all times since its purchase or creation, the holding has been comprised in a tenancy or successive tenancies of the description specified in section 37(1), and—

- (a) where on the making of an application under section 43 the court is precluded (whether by subsection (1) or subsection (2) of section 50) from making an order for the grant of a new tenancy by reason of any of the grounds specified in paragraph (d) of subsection (1) of this section and not of any other grounds specified in any other paragraph of that subsection, then subject to the provisions of this Act the tenant shall be entitled, at his election, either—
  - (i) in the case where the landlord intends to reconstruct the premises comprising the holding (whether by demolishing those premises and rebuilding or by substantial works of reconstruction) as premises to be let partly or wholly for the purpose of carrying on any business, to require the landlord in lieu of paying compensation in accordance with sub-paragraph (ii) of this paragraph to grant to the tenant on the completion of such works of building or construction a tenancy of such part of the premises so re-built or reconstructed (hereinafter called “the new premises”) as approximates in area and situation to that part of the premises comprised in the current tenancy, and to do so on such terms and conditions as may be agreed between the landlord and the tenant or are, in default of such agreement, determined by the court; or
  - (ii) on quitting the holding, to recover from the landlord by way of compensation the appropriate amount of compensation specified in Schedule 5; and

- (b) where on the making of an application under section 43 the court is precluded (whether by subsection (1) or subsection (2) of section 50) from making an order for the grant of a new tenancy by reason of any of the grounds specified in paragraph (e) of subsection (1) of this section and not of any other grounds specified in any other paragraph of that subsection, then subject to the provisions of this Act the tenant shall be entitled either—
- (i) to have provided or secured to him by the landlord, in a manner approved by the court, alternative accommodation the terms of which are reasonable, having regard to the terms of the current tenancy and to all other relevant circumstances, and in respect of which also the Rent Assessor has certified that the alternative accommodation and the time at which it will be available are suitable for the tenant's requirements (including the requirement to preserve goodwill) having regard to the class and nature of the tenant's business and to the size, condition, facilities and location of both the holding and the alternative accommodation; or
  - (ii) on quitting the holding, to recover from the landlord by way of compensation the appropriate amount of compensation specified in Schedule 5.
- (3) Where the court is precluded from making an order for the grant of a new tenancy under this Part in any of the circumstances mentioned in subsection (2), the court shall—
- (a) on the application of the tenant certify that fact; and
  - (b) in the case to which paragraph (a) of that subsection refers, either—
    - (i) where the tenant so requires, order that the landlord shall in accordance with that paragraph grant the tenant a tenancy on the completion or reconstruction of the premises; or
    - (ii) where the tenant elects to accept compensation, certify that the tenant has so elected and determine the amount of the compensation payable under that paragraph.
- (4) Nothing in subsection (2) shall prejudice the rights of the tenant under section 71.
- (5) (a) When the landlord has opposed an application on the ground specified in paragraph (e) of subsection (1) and the court

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has not made an order for the grant of a new tenancy, it shall not be lawful for the landlord within a period of 5 years commencing with the date of the termination of the tenancy to create any new tenancy or letting in respect of the holding or any part thereof unless he has first offered to the former tenant the option of a new tenancy of the holding in accordance with the provisions of sections 52, 53 and 54.

- (b) The option shall be exercised within a period of 3 months from the communication to the former tenant of such option.

### **Dismissal of application for new tenancy.**

50.(1) If the landlord opposes an application under section 43(1) on grounds on which he is entitled to oppose it in accordance with section 49 and establishes any of those grounds to the satisfaction of the court, the court shall not make an order for the grant of a new tenancy.

(2) Where in a case not falling within subsection (1) of this section the landlord opposes an application under section 43(1) on any grounds specified in paragraph (d) and (e) of section 49(1) but establishes none of those grounds to the satisfaction of the court, then if the court would have been satisfied of any of those grounds if the date of termination specified in the landlord's notice or, as the case may be, the date specified in the tenant's request for a new tenancy as the date from which the new tenancy is to begin, had been such later date as the court may determine, being a date not more than one year later than the date so specified,—

- (a) the court shall make a declaration to that effect, stating on which of the grounds the court would have been so satisfied, and specifying the date so determined by the court, but shall not make an order for the grant of a new tenancy;
- (b) if, within 14 days after the making of the declaration, the tenant so requires, the court shall make an order substituting the said date for the date specified in the landlord's notice or tenant's request, and thereupon that notice or request shall have effect accordingly.

### **Property to be comprised in new tenancy.**

51.(1) Subject to subsection (2), an order under section 48 for the grant of a new tenancy shall be an order for the grant of a new tenancy of the holding; and in the absence of agreement between the landlord and the tenant as to the property which constitutes the holding the court shall in the order designate that property by reference to the circumstances existing at the date of the order.

(2) The foregoing provisions of this section shall not apply in a case where the property comprised in the current tenancy includes other property besides the holding and the landlord requires any new tenancy ordered to be granted under section 48 to be a tenancy of the whole of the property comprised in the current tenancy; but in any such case—

- (a) any order under section 48 for the grant of a new tenancy shall be an order for the grant of a new tenancy of the whole of the property comprised in the current tenancy; and
- (b) references in the following provisions of this Part to the holding shall be construed as references to the whole of that property.

(3) Where the current tenancy includes rights enjoyed by the tenant in connection with the holding, those rights shall be included in a tenancy ordered to be granted under section 48.

#### **Duration of new tenancy.**

52. Where on an application under this Part the court makes an order for the grant of a new tenancy, the new tenancy shall be such tenancy as may be agreed between the landlord and the tenant, or, in default of such an agreement shall be such a tenancy as may be determined by the court to be reasonable in all the circumstances, being, if it is a tenancy for a term of years certain, a tenancy for a term of not less than 5 years and not more than 14 years, and shall begin on the coming to an end of the current tenancy.

#### **Rent under new tenancy.**

53.(1) The rent payable under a tenancy granted by order of the court under this Part shall be such as may be agreed between the landlord and the tenant or as, in default of such agreement, may be determined by the court to be that at which, having regard to the terms of the tenancy (other than those relating to rent), the holding might reasonably be expected to be let in the open market by a willing lessor, there being disregarded—

- (a) any effect on rent of the fact that the tenant has or his predecessors in title have been in occupation of the holding;
- (b) any goodwill attached to the holding by reason of the carrying on thereat of the business of the tenant (whether by him or by a predecessor of his in that business);
- (c) any effect on rent of any improvement carried out by the tenant or a predecessor in title of his otherwise than in pursuance of an obligation to his immediate landlord;



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- (d) in the case of a holding comprising licensed premises, any addition to its value attributable to the licence, if it appears to the court that having regard to the terms of the current tenancy, and any other relevant circumstances, the benefit of the licence belongs to the tenant.

(2) In determining the rent payable, the court may determine as a term of the tenancy that the rent may from time to time during the tenancy be reviewed.

### **Other terms of new tenancy.**

54.(1) The terms of a tenancy granted by order of the court under this Part (other than terms as to its duration and as to the rent payable) shall be such as may be agreed between the landlord and the tenant, or as, in default of such agreement, may be determined by the court; and in determining those terms the court shall have regard to the terms of the current tenancy and to all relevant circumstances.

### **Carrying out of order for new tenancy.**

55.(1) Where under this Part the court makes an order for the grant of a new tenancy, then, unless the order is revoked under subsection (2) or the landlord and the tenant agree not to act upon the order, the landlord shall be bound to execute or make in favour of the tenant, and the tenant shall be bound to accept, a lease or agreement for a tenancy of the holding embodying the terms agreed between the landlord and the tenant or determined by the court in accordance with the foregoing provisions of this Part; and where the landlord executes or makes such a lease or agreement the tenant shall be bound, if so required by the landlord, to execute a counterpart or duplicate thereof.

(2) If the tenant, within 14 days after the making of an order under this Part for the grant of a new tenancy, applies to the court for the revocation of the order the court shall revoke the order; and where the order is so revoked, then, if it is so agreed between the landlord and the tenant or determined by the court, the current tenancy shall continue, beyond the date at which it would have come to an end apart from this subsection, for such period as may be so agreed or determined to be necessary to afford to the landlord a reasonable opportunity for reletting or otherwise disposing of the premises which would have been comprised in the new tenancy; and while the current tenancy continues by virtue of this subsection it shall not be a tenancy to which this Part applies.

(3) Where an order is revoked under subsection (2) any provision thereof as to payment of costs shall not cease to have effect by reason only of the revocation; but the court may, if it thinks fit, revoke or vary any such

provision or, where no costs have been awarded in the proceedings for the revoked order, award such costs.

(4) A lease executed or agreement made under this section, in a case where the interest of the lessor is subject to a mortgage, shall be deemed to be one authorized by section 18 of the Conveyancing and Law of Property Act 1881 (which confers certain powers of leasing on mortgagors in possession), and subsection (13) of that section (which allows those powers to be restricted or excluded by agreement) shall not have effect in relation to such a lease or agreement.

#### **Compensation where order for new tenancy precluded on certain grounds.**

56.(1) Where on the making of an application under section 43 the court is precluded (whether by subsection (1) or subsection (2) of section 50) from making an order for the grant of a new tenancy by reason of any of the grounds specified in paragraph (d) or paragraph (e) of section 49(1) and not of any grounds specified in any other paragraph of that subsection, then, subject to the provisions of this Act, the tenant shall be entitled on quitting the holding to recover from the landlord by way of compensation (in addition to any amount payable under section 49(2)) an amount determined in accordance with the following provisions of this section.

- (2) The amount shall comprise—
- (a) the reasonable removal expenses of the tenant from the holding to any alternative accommodation; and
  - (b) the reasonable expenses of the tenant incurred in refurbishing that alternative accommodation to a standard comparable to that of any refurbishment carried out by the tenant to the holding during the current tenancy.

#### **Extension of time.**

57.(1) Where under section 44 a landlord is required to give notice, and he does not receive within the specified time a notice from the tenant stating whether or not he is willing to give up possession of the property comprised in the tenancy, the landlord shall at least 14 days before the date of termination give a further copy of the notice to the tenant.

(2) The court may, in its discretion, grant to a landlord or tenant an extension of time for giving any notice or making any application or request under this Part.

#### **Restriction on agreements excluding provisions of Part IV.**

58.(1) Any agreement relating to a tenancy to which this Part applies (whether contained in the instrument creating the tenancy or not) shall be void in so far as it purports to preclude the tenant from making an application or request under this Part or provides for the termination or the surrender of the tenancy in the event of his making such an application or request or for the imposition of any penalty or disability on the tenant in that event.

(2) Where—

- (a) during the whole of the 5 years immediately preceding the date on which the tenant under a tenancy to which this Part applies is to quit the holding, premises being or comprised in the holding have been occupied for the purposes of a business carried on by the occupier or for those and other purposes; and
- (b) if, during those 5 years there was a change in the occupier of the premises, the person who was the occupier immediately after the change was the successor to the business carried on by the person who was the occupier immediately before the change—

any agreement (whether contained in the instrument creating the tenancy or not and whether made before or after the termination of that tenancy) which purports to exclude or reduce compensation under section 49(2) or section 56 shall to that extent be void, so however that this subsection shall not affect any agreement as to the amount of any such compensation which is made after the right to compensation has accrued.

(3) In a case not falling within subsection (2) of this section, the right to compensation conferred by section 49(2) or section 56 may be excluded or modified by agreement.

### **Compulsory acquisitions.**

59.(1) The amount of any compensation payable under the provisions of the Land (Acquisition) Act, in respect of any land in the possession of any person having no greater interest therein than as tenant for a year or from year to year shall, in the case of a tenancy to which this Part applies, be assessed without regard to the right of tenants to apply under this Part for the grant of new tenancies.

(2) If the amount of the compensation which would have been payable under section 49(2) and section 56 (if the tenancy had come to an end in circumstances giving rise to compensation under those sections and the date at which the acquiring authority obtained possession had been the termination of the current tenancy), exceeds the amount of the compensation assessed in accordance with subsection (1) of this section, that compensation shall be increased by the amount of the excess.

(3) Nothing in section 43 shall affect the operation of the provisions of the Land (Acquisition) Act.

**Duty of tenants and landlords of business premises to give information to each other.**

60.(1) Where any person having an interest in any business premises, being an interest in reversion expectant (whether and immediately or not) on a tenancy of those premises serves on the tenant a notice in the prescribed form requiring him to do so, it shall be the duty of the tenant to notify that person in writing within one month of the service of the notice—

- (a) whether he occupies the premises or any part thereof wholly or partly for the purposes of a business carried on by him; and
- (b) whether his tenancy has effect subject to any sub-tenancy on which his tenancy is immediately expectant, and if so, what premises are comprised in the sub-tenancy, for what term it has effect (or, if it is terminable by notice, by what notice it can be terminated), what is the rent payable thereunder, who is the sub-tenant, and (to the best of his knowledge and belief) whether the sub-tenant is in occupation of the premises or of part of the premises comprised in the sub-tenancy and, if not, what is the sub-tenant's address.

(2) Where the tenant of any business premises, being a tenant under such a tenancy as is mentioned in section 45(1) serves on any of the persons mentioned in subsection (3) of this section a notice in the prescribed form requiring him to do so, it shall be the duty of that person to notify the tenant in writing within one month after the service of the notice—

- (a) whether he is the owner of the fee simple in respect of those premises or any part thereof or the mortgagee in possession of such an owner; and, if not
- (b) to the best of his knowledge and belief the name and address of the person who is his or, as the case may be, his mortgagor's immediate landlord in respect of those premises or of the part in respect of which he or his mortgagor is not the owner in fee simple, for what term his or his mortgagor's tenancy thereof has effect and the earliest date (if any) at which that tenancy is terminable by notice to quit given by the landlord.

(3) The persons referred to in subsection (2) of this section are, in relation to the tenant of any business premises,—

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- (a) any person having an interest in the premises, being an interest in reversion expectant (whether immediately or not) on the tenant's; and
- (b) any person being a mortgagee in possession in respect of such an interest in reversion as is mentioned in paragraph (a) of this subsection—

and the information which any such person as is mentioned in paragraph (a) of this subsection is required to give under subsection (2) shall include information whether there is a mortgagee in possession of his interest in the premises and, if so, the name and address of the mortgagee.

(4) The preceding provisions of this section shall not apply to a notice served by or on the tenant more than 2 years before the date on which apart from this Act his tenancy would come to an end by effluxion of time or could be brought to an end by notice to quit given by the landlord.

(5) In this section—

“business premises” means premises used wholly or partly for the purposes of any business;

“mortgagee in possession” includes a receiver appointed by the mortgagee or by the court who is in receipt of the rents and profits, and “his mortgagor” shall be construed accordingly;

“sub-tenant” includes a person retaining possession of any premises by virtue of the provisions of Part III after the coming to an end of a sub-tenancy, and “sub-tenancy” includes a right so to retain possession.

## **Trusts.**

61.(1) Where a tenancy is held on trust, occupation by all or any of the beneficiaries under the trust, and the carrying on of a business by all or any of the beneficiaries, shall be treated for the purposes of section 38 as equivalent to occupation or the carrying on of a business by the tenant; and in relation to a tenancy to which this Part applies by virtue of the foregoing provisions of this subsection—

- (a) references (however expressed) in this Part to the business of, or to carrying on of business, use, occupation or enjoyment by, the tenant shall be construed as including references to the business of, or to carrying on of business, use, occupation or enjoyment by, the beneficiaries or beneficiary;

- (b) the reference in paragraph (d) of section 53(1) to the tenant shall be construed as including the beneficiaries or beneficiary; and
- (c) a change in the persons of the trustees shall not be treated as a change in the person of the tenant.

(2) Where the landlord's interest is held on trust, the references in paragraph (e) of section 49(1) to the landlord shall be construed as including references to the beneficiaries under the trust or any of them; but, except in the case of a trust arising under a will or on the intestacy of any person, the reference in subsection (2) of that section to the creation of the interest therein mentioned shall be construed as including the creation of the trust.

#### **Groups of companies.**

62.(1) For the purposes of this section, two bodies corporate shall be taken to be members of a group if and only if one is a subsidiary (as defined in section 119 of the Companies Act) of the other or both are subsidiaries (as so defined).

(2) Where a tenancy is held by a member of a group, occupation by another member of the group, and the carrying on of a business by another member of the group, shall be treated for the purposes of section 38, as equivalent to occupation or the carrying on of a business by the member of the group holding the tenancy; and in relation to a tenancy to which this Part applies by virtue of the preceding provisions of this subsection—

- (a) references (however expressed) in this Part 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 the said other member;
- (b) the reference in paragraph (d) of section 53(1) to the tenant shall be construed as including the said other member; and
- (c) an assignment of the tenancy from one member of the group to another shall not be treated as a change in the person of the tenant.

(3) Where the landlord's interest is held by a member of a group the reference in paragraph (e) of subsection (1) of section 49 to intended occupation by the landlord for the purpose of a business to be carried on by him shall be construed as including intended occupation by any member of the group for the purposes of a business to be carried on by that member.

#### **Tenancies excluded from Part IV.**

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63.(1) This Part shall not apply to a tenancy where the property comprised therein is let under a letting to which the restrictions on the obtaining of possession by the landlord imposed by section 18 apply in relation to the tenant.

(2) This Part shall not apply to a tenancy granted by reason that the tenant was the holder of an office, appointment or employment from the grantor of the tenancy and continuing only so long as the tenant holds the office, appointment or employment, or terminable by the grantor on the tenant ceasing to hold it, or coming to an end at a time fixed by reference to the time at which the tenant ceases to hold it.

(3) Subsection (2) shall not have effect in relation to a tenancy granted after the commencement of this Act unless the tenancy was granted by an instrument in writing which expressed the purpose for which the tenancy was granted.

(4) This Part does not apply to a tenancy granted for a term not exceeding 3 months unless—

- (a) the tenancy contains provision for renewing the term or for extending it beyond 3 months from its beginning; or
- (b) the tenant has been in occupation for a period which, together with any period during which any predecessor in the carrying on of the business carried on by the tenant was in occupation, exceeds 6 months.

## **Modification of rights on grounds of public interest.**

64.(1) Where the interest of the landlord or of any superior landlord in any property comprised in any tenancy belongs to or is held for the purposes of a Government department, the competent authority may certify that it is requisite for the purposes of the department that the use or occupation of the property shall be changed by a specified date.

(2) A certificate under subsection (1) shall not be given unless the owner of the interest belonging or held as mentioned in that subsection has given to the tenant a notice stating—

- (a) that the question of the giving of such a certificate is under consideration by the competent authority specified in the notice; and
- (b) that if within 21 days of the giving of the notice the tenant makes to the competent authority representations in writing with respect to that question, they will be considered before the question is determined—

and if the tenant makes any such representations within the said 21 days, the competent authority shall consider them before determining whether to give the certificate.

(3) Where a certificate has been given under subsection (1) in relation to any tenancy, then,—

- (a) if a notice given under section 44(1) specifies as the date of termination a date not earlier than the date specified in the certificate and contains a copy of the certificate, subsections (5) and (6) of that section shall not apply to the notice and no application for a new tenancy shall be made by the tenant under section 43;
- (b) if such a notice specifies an earlier date as the date of termination and contains a copy of the certificate, then if the court makes an order under this Part for the grant of a new tenancy the new tenancy shall be for a term expiring not later than the date specified in the certificate and shall not be a tenancy to which this Part applies.

(4) Where a tenant makes a request for a new tenancy under section 45, and the interest of the landlord or any superior landlord in the property comprised in the current tenancy belongs or is held as mentioned in subsection (1), the following provisions shall have effect:

- (a) if a certificate has been given under subsection (1) in relation to the current tenancy, and within 2 months after the making of the request the landlord gives notice to the tenant that the certificate has been given and the notice contains a copy of the certificate, then,—
  - (i) if the date specified in the certificate is not later than that specified in the tenant's request for a new tenancy, the tenant shall not make application under section 43 for the grant of a new tenancy;
  - (ii) if, in any other case, the court makes an order under this Part for the grant of a new tenancy, the new tenancy shall be for a term expiring not later than the date specified in the certificate and shall not be a tenancy to which this Part applies;
- (b) if no such certificate has been given but notice under subsection (2) of this section has been given before the making of the request or within 2 months thereafter, the request shall not have effect, without prejudice however to the making of a new



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request when the competent authority has determined whether to give a certificate.

(5) Where an application is made to the court under this Part for the grant of a new tenancy and the landlord's interest in the property comprised in the tenancy belongs or is held as mentioned in subsection (1), the competent authority may certify that it is necessary in the public interest that if the landlord makes an application in that behalf the court shall determine as a term of the new tenancy that it shall be terminable by 6 months' notice to quit given by the landlord.

(6) Subsection (2) shall apply in relation to a certificate under this subsection, and if notice under subsection (2) has been given to the tenant—

- (a) the court shall not determine the application for the grant of a new tenancy until the competent authority has determined whether to give a certificate;
- (b) if a certificate is given, the court shall on the landlord's application determine as a term of the new tenancy that it shall be so terminable, and section 44 shall apply accordingly.

(7) In this section and the next following section, "competent authority" means the Deputy Governor.

## **Termination on Special grounds.**

65.(1) Where the landlord's interest in the property comprised in any tenancy belongs to or is held for the purposes of a department of the Government of Gibraltar or of the United Kingdom Government, and the Deputy Governor certifies that for reasons of national security it is necessary that the use or occupation of the property should be discontinued or changed, then—

- (a) if the landlord gives a notice under section 44(1) containing a copy of the certificate, subsections (5) and (6) of that section shall not apply to the notice and no application for a new tenancy shall be made by the tenant under section 43;
- (b) if (whether before or after the giving of the certificate) the tenant makes a request for a new tenancy under section 45, and within 2 months after the making of the request the landlord gives notice to the tenant that the certificate has been given and the notice contains a copy of the certificate—
  - (i) the tenant shall not make an application under section 43 for the grant of a new tenancy; and

- (ii) if the notice specifies as the date on which the tenancy is to terminate a date earlier than that specified in the tenant's request as the date on which the new tenancy is to begin but neither earlier than 6 months from the giving of the notice nor earlier than the earliest date at which apart from this Act the tenancy would come to an end or could be brought to an end, the tenancy shall terminate on the date specified in the notice instead of that specified in the request.

(2) Where the landlord's interest in the property comprised in any tenancy belongs to or is held for the purposes of any such department, nothing in this Act shall invalidate an agreement to the effect—

- (a) that on the giving of such a certificate as is mentioned in subsection (1) the tenancy may be terminated by notice to quit given by the landlord of such length as may be specified in the agreement, if the notice contains a copy of the certificate; and
- (b) that after the giving of such a notice containing such a copy the tenancy shall not be one to which this Part applies.

**Termination where redevelopment required in the public interest.**

66.(1) Where the interest of the landlord or of any superior landlord in any property comprised in any tenancy to which this Part applies belongs to or is held for the purposes of a department of the Government of Gibraltar and the Governor certifies that it is in the public interest for the economic development of Gibraltar that the property should be redeveloped and that the tenancy should be terminated at an earlier date than would otherwise be lawful under the provisions of this Part, then, subject to this section, this Part and Schedule 3 shall cease to apply to that tenancy as from the date on which the giving of such certificate is signified by notice in the Gazette, and—

- (a) the tenancy may be terminated by such notice to quit whereby apart from the provisions of this Part it could be terminated; and
- (b) on termination of the tenancy, any sub-tenancy then subsisting of any property comprised in the tenancy shall also determine; and
- (c) if the tenant, prior to the date of the notice in the Gazette, has made request for a new tenancy in pursuance of the provisions of this Part, such request shall forthwith lapse.

(2) On quitting the holding, any tenant or sub-tenant whose tenancy is determined under the provisions of this section, being a tenant or sub-tenant

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occupying under a tenancy to which this Part applies, shall be entitled to recover from the owner of the interest by virtue of which the certificate was given an amount by way of compensation determined in accordance with section 49(2) and section 56, those sections being construed however as if for the references to notices under sections 44 and 45 there were substituted references to the notice in the Gazette under this section.

(3) A certificate under subsection (1) shall not be given unless the owner of the interest belonging or held as mentioned in subsection (2) has given to the tenant a notice stating—

- (a) that the question of giving such a certificate is under consideration by the Governor; and
- (b) the nature of the redevelopment which is proposed; and
- (c) that if within 14 days of the giving of the notice the tenant makes to the Governor representations in writing with respect to that question, they will be considered before the question is determined,

and if the tenant makes any such representations within the said 14 days, the Governor shall consider them before determining whether to give the certificate.

(4) Subsections (2), and (3) of section 58 shall apply to compensation under this section as they apply to compensation under section 49(2) and section 56.

## **Compensation for exercise of powers under sections 65 and 66.**

67.(1) Where by virtue of any certificate given for the purposes of either of sections 65 and 66, the tenant is precluded from obtaining an order for the grant of a new tenancy, or of a new tenancy for a term expiring later than a specified date, the tenant shall be entitled on quitting the premises to recover from the owner of the interest by virtue of which the certificate was given an amount by way of compensation, and section 49(2) and section 56 shall, with the necessary modifications, apply for the purposes of ascertaining the amount.

(2) Subsections (2) and (3) of section 58 shall apply to compensation under this section as they apply to compensation under section 49(2) and section 56.

## **Special provisions relating to the Ministry of Defence.**

68.(1) Where the property comprised in the tenancy consists of premises belonging to or held for the defence purposes of the United Kingdom

Government and the Deputy Governor certifies that it is desirable for the effective carrying out of any agreement for the time being in force between the Government of Gibraltar and the United Kingdom Government relating to the disposal of Crown land or other land held for defence purposes in Gibraltar that the occupation of the premises should be discontinued or changed, paragraphs (a) and (b) of section 66(1) shall apply as they apply where such a certificate is given as is mentioned in that subsection.

(2) Where by virtue of any certificate given under section (1), the tenant is prevented from obtaining an order for the grant of a new tenancy or of a tenancy for a term expiring later than a specified date, the tenant shall be entitled on quitting the premises to be paid out of the Consolidated Fund an amount by way of compensation and section 49(2) and section 56 shall, with the necessary modifications, apply for the purpose of ascertaining the amount.

#### **Assignments.**

69. (1) Subject to the provisions of this section, but notwithstanding any agreement to the contrary, it shall be a condition of every tenancy to which this Part applies that—

- (a) the tenant may not assign his interest under the tenancy without the prior written consent of the landlord; and
- (b) the consent of the landlord to the assignment shall not be unreasonably withheld.

(2) The landlord may as a condition of consenting to an assignment specified in subsection (1), charge a premium not exceeding the equivalent of 2 years' rent at the annual rental payable immediately before the date of the assignment.

(3) The landlord may withhold his consent to the assignment of the tenant's interest where the assignee intends to change the user of the holding from that carried on by the assignor of the holding.

(4) It shall not be lawful for an assignee referred to in subsection (3) to materially change the kind of business carried on by him in the holding without the prior written consent of the landlord.

#### **PART V. GENERAL PROVISIONS.**

#### **Restriction on right to possession in certain cases.**

70.(1) Where proceedings are taken against a tenant of any premises to which this Act applies for the recovery of possession of the dwellinghouse

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or for the ejection of the tenant, and it appears to the court that the proceedings are harsh or oppressive or that exceptional hardship would be caused to the tenant by the making or giving of an order or judgment for possession or ejection, the court may refuse to make or give such an order or judgment or may adjourn the application for or stay or suspend execution of any such order or judgment or postpone the date of possession for such period or periods, and subject to such conditions as it thinks proper, and, if such conditions are complied with, the court may, if it thinks fit, discharge or rescind any such order or judgment.

(2) For the purpose of the exercise of its jurisdiction under this section, the court may direct that the tenancy shall be treated as a subsisting tenancy notwithstanding the determination of the same by any notice to quit or similar notice or otherwise and may set aside and annul any such notice accordingly, and shall, subject to the provisions of this Act, have power to determine what increase of rent (if any) is fair and reasonable, having regard to the character and condition of the premises and the rents of similar premises in the locality.

(3) The court shall not exercise any of its powers under subsections (1) or (2) in any case where it is satisfied that greater hardship would be caused to the landlord by the exercise of the power than would be caused to the tenant by the refusal to exercise it.

(4) In any such proceedings, an order or judgment for possession or ejection against the tenant of the premises shall not, unless the court otherwise directs, be operative against a tenant of a part of the premises which is lawfully sub-let to him, and the court shall, in relation to that part of the premises and the tenant thereof, have the same powers and jurisdiction as it has in relation to the whole premises and the tenant thereof.

(5) In order to assist the court in the determination of questions arising under this Part in relation to the rent, character or condition of premises, the Governor may establish reference committees to whom such questions may be referred by the court for consideration and report.

## **Compensation for possession obtained by misrepresentation.**

71.(1) Where under section 18 an order is made for the recovery of property comprised in a tenancy or under Part IV the court refuses an order for the grant of a new tenancy and it is subsequently made to appear to that court that the order was obtained, or the court was induced to refuse the grant, by misrepresentation or the concealment of any material fact, the court may order the landlord to pay to the tenant such sum as appears sufficient as compensation for damage or loss sustained by the tenant as the result of the order or refusal.

(2) In this section the expression “the landlord” means the person applying for possession or opposing an application for the grant of a new tenancy, and the expression “the tenant” means the person against whom the order for possession was made or to whom the grant of a new tenancy was refused.

**Power to issue notices, and summonses.**

72.(1) For the purpose of determining any application made to it under the provisions of this Act, the Rent Tribunal may—

- (a) require either party to give to it within such period as may be specified in the notice (not being less than 7 days from the date of the service of the notice) such information as it may reasonably require and specify in the notice, relating to the contract or to the dwellinghouse or (in the case of an appeal from the decision of the Housing Manager), the personal circumstances of the applicant and his family; and
- (b) refer any question relating to the measurement of the dwellinghouse or part thereof, the subject of the application, to a qualified surveyor or engineer; and
- (c) summon any person to appear before it to give evidence on oath or to produce any document, for which purposes it shall have all the powers of the magistrates’ court.

(2) Any summons or notice by the Rent Tribunal under subsection (1) shall be signed by the person presiding and may be served either personally or by post.

**Errors in notice of increase.**

73.(1) Where a court of competent jurisdiction or the Rent Tribunal is satisfied that any error or omission in a notice of intention to increase rent (whether served before or after the commencement of this Act) is the result of a bona fide mistake on the part of the landlord,—

- (a) the court or the Rent Tribunal may amend the notice by correcting the error or supplying the omission on such terms and conditions, in relation to arrears of rent or otherwise, as it considers just and reasonable; and
- (b) if the court or Rent Tribunal so directs, the notice (as so amended by it) shall be a valid notice.

(2) No increase of rent that becomes payable by reason of the amendment under this section of a notice shall be recoverable in respect of

any period that has ended more than 6 months before the date on which the court or Rent Tribunal amends the notice.

## **Appeals against decision of Rent Tribunal and Rent Assessor.**

74.(1) Any person who is aggrieved by any decision of the Rent Tribunal or of the Rent Assessor under this Act may, within 21 days after being notified in writing of the decision, appeal against it to the Supreme Court.

(2) On hearing the appeal, the court may confirm, reverse or vary the decision.

## **Notices to quit.**

75. Subject to the other provisions of this Act, but notwithstanding any agreement to the contrary, no periodical tenancy shall be determinable by less than 6 months' notice of intention to terminate the tenancy.

## **Retrospective and interim awards.**

76. Where the landlord and the tenant of any premises to which Part IV applies are unable to agree on the terms and conditions of a new tenancy within 3 months after the date of termination of the current tenancy, the Supreme Court may—

- (a) on an interlocutory application to it by either party, make any interim order as to the payment of rent; and
- (b) in granting a new tenancy, order that the rent payable under it shall be payable and recoverable from such date prior to the order, but not preceding the date of termination of the former lease, as the court may specify.

## **Interim continuation of tenancies pending determination by court or tribunal.**

77.(1) Notwithstanding any other provisions of this Act, in any case where—

- (a) a notice to terminate a tenancy has been given under Part III or Part IV or a request for a new tenancy has been made under Part IV; and
- (b) an application to a court has been made under Part III or Part IV, as the case may be; and
- (c) apart from this section, the effect of the notice or request would be to terminate the tenancy before the expiration of the period of

3 months beginning with the date on which the application is finally disposed of—

the effect of the notice or request shall be to terminate the tenancy at the expiration of the said period of 3 months and not at any other time.

(2) The reference in paragraph (c) of subsection (1) to the date on which an application is finally disposed of shall be construed as a reference to the earliest date by which the proceedings on the application (including any proceedings on or in consequence of an appeal) have been determined and any time for appealing or further appealing has expired, except that if the application is withdrawn or any appeal is abandoned the reference shall be construed as a reference to the date of the withdrawal or abandonment.

#### **Provisions as to reversions.**

78.(1) Where by virtue of any provision of this Act a tenancy (in this subsection referred to as “the inferior tenancy”) is continued for a period such as to extend to or beyond the end of the term of a superior tenancy, the superior tenancy shall, for the purposes of this Act and of any other enactment and of any rule of law, be deemed so long as it subsists to be an interest in reversion expectant upon the termination of the inferior tenancy and, if there is no intermediate tenancy, to be the interest in reversion immediately expectant upon the termination thereof.

(2) Where by virtue of any provision of this Act a tenancy (in this subsection referred to as “the continuing tenancy”) is continued beyond the beginning of a reversionary tenancy which was granted (whether before or after the commencement of this Act) so as to begin on or after the date on which apart from this Act the continuing tenancy would have come to an end, the reversionary tenancy shall have effect as if it had been granted subject to the continuing tenancy.

(3) Where by virtue of any provision of this Act a tenancy (in this subsection referred to as “the new tenancy”) is granted for a period beginning on the same date as a reversionary tenancy or for a period such as to extend beyond the beginning of the term of a reversionary tenancy, whether the reversionary tenancy in question was granted before or after the commencement of this Act, the reversionary tenancy shall have effect as if it had been granted subject to the new tenancy.

#### **Provisions as to mortgagees in possession.**

79. Anything authorized or required by the provisions of this Act, other than subsection (2) or (3) of section 60, to be done at any time by, to or with the landlord, or a landlord of a specified description, shall, if at that time the interest of the landlord in question is subject to a mortgage and the mortgagee is in possession or a receiver appointed by the mortgagee or by



the court is in receipt of the rents and profits, be deemed to be authorized or required to be done by, to or with the mortgagee instead of that landlord.

### **Tenant to supply rates demand note to landlord if so requested.**

79A. It shall be a condition of every tenancy that the tenant shall, if so requested in writing by the landlord, deliver to the landlord within 15 days of such request or other greater period specified by the landlord a copy of the demand note addressed to the tenant by the Financial and Development Secretary pursuant to section 276 of the Public Health Act<sup>1</sup> and of the receipt or some other sufficient evidence of payment of the amount due and payable by the tenant.

### **Rules of court.**

80.(1) The Chief Justice may make such rules of court and give such directions as he thinks fit for regulating the proceedings of any court under the provisions of this Act and the fees payable in respect thereof and may by those rules or directions provide for any such proceedings to be conducted so far as possible in private and for the remission of any fees.

(2) The Chief Justice may make such rules of court and give such directions as he thinks fit for regulating the proceedings of the Rent Tribunal under the provisions of this Act, and the procedure for the reference to the court by the Rent Tribunal of matters for determination.

### **Reserve fund.**

80A.(1) A reserve fund shall be maintained in respect of each building erected on or before the 1st day of January, 1945 and containing either wholly or in part domestic premises to which Part III of this Act applies.

(2) There shall be paid into the reserve fund one third of all the rents received from the letting of all premises in the building to which subsection (1) applies, during the first 2 years after the date on which each of such premises is first let, and thereafter 15 per cent of all such rents received.

- (3) No money shall be withdrawn from the reserve fund except—
- (a) money that is to be expended and is expended for repairs to the building to which the fund relates; or
  - (b) money that the Court authorises or directs to be withdrawn from the Reserve Fund for the purpose of effecting repairs to the building to which the fund relates.

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<sup>1</sup> 1950-07

- (4) Subject to subsection (5), any person who—
- (a) fails to comply with subsection (1) or subsection (2); or
  - (b) fails to comply with subsection (3) or with any direction under that subsection—

shall be guilty of an offence and shall be liable on summary conviction to a fine of £1,000.

(5) Nothing in this section shall prohibit a person from withdrawing or applying for his own use any interest that accrues on the principal money comprising a reserve fund.

### **Regulations.**

81. The Governor may from time to time make regulations for all or any of the following purposes:

- (a) for prescribing the fees to be charged in respect of any proceedings before the Rent Tribunal;
- (b) for regulating the manner in which reserve funds under Section 80A shall be maintained, the manner in which accounts of such funds shall be kept, and the inspection and audit of such accounts;
- (c) for the form of and the particulars to be contained in rent books;
- (d) for the keeping of the register under section 39;
- (e) for such other matters as may be prescribed under this Act;
- (f) for such other matters as may be necessary for or incidental to the due administration of this Act.

82. *Omitted.*

### **Repeal.**

83. The Landlord and Tenant (Miscellaneous Provisions) Act (hereinafter called the former Act) is repealed—

*Section 83(a) repeals section 3.*

*Section 83(b) repeals Part II.*

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*Section 83(c) replaces section 64.*

*Section 83(d) replaces section 65.*

*Section 83(e) replaces section 66.*

*Section 83(f) replaces section 67.*

*Section 83(g) repeals section 68.*

*Section 83(h) repeals section 69.*

*Section 83(i) repeals Schedule 1.*

*Section 83(j) repeals Schedule 2.*

*Section 83(k) repeals Schedule 3.*

*Section 83(l) repeals Schedule 4.*

*Section 83(m) repeals Schedule 6.*

## **Savings.**

84. Notwithstanding the repeal of the former Act by section 83 of this Act, but subject to Schedule 4 to this Act—

- (a) any subsidiary legislation made or issued under or in operation by virtue of the former Act, which could have been made under this Act if it had been in operation when that subsidiary legislation was so made or issued, shall remain in operation as if it had been made or issued under this Act, but may be revoked or amended by subsidiary legislation made or issued under this Act; and
- (b) any rent payable in respect of any tenancy under or by virtue of the former Act (being a tenancy to which Part III or part IV of this Act applies) shall continue to be the rent payable under that tenancy until the rent in respect of that tenancy is determined on the application of the landlord or tenant in accordance with this Act.

## SCHEDULE 1

Section 11

## STATUTORY RENT FOR DWELLINGHOUSES.

In this Schedule—

“rates” means the rates payable in respect of a dwellinghouse or where a dwellinghouse is assessed as a whole and part only of the dwellinghouse is comprised in the tenancy such part of the rates as represents a fair proportion of the rates in respect of such part;

“square” means 100 square feet of the floor space of a dwelling house measured in such manner and excluding such areas as may be prescribed.

## PART I.

1. The statutory rent of a dwellinghouse or part of a dwellinghouse shall be as follows:

- |     |  |  |
|-----|--|--|
| (a) | where the dwellinghouse or part of a dwellinghouse is a self-contained unit, with a bathroom.    | £60 per square per annum exclusive of rates. |
| (b) | where the dwellinghouse or part of a dwellinghouse is a self-contained unit, without a bathroom. | £45 per square per annum exclusive of rates. |
| (c) | where the dwellinghouse or part of a dwellinghouse is a communal services tenement.              | £40 per square per annum inclusive of rates. |

2. In the case of a dwellinghouse or part of a dwellinghouse referred to in paragraph 1(a), where the bathroom has been built by the tenant, and there was no previous bathroom, the statutory rent shall be calculated until the period of 5 years following the completion of the bathroom at the appropriate rate specified in paragraph 1(b) or 1(c).

3. In the case of a dwellinghouse that is let furnished, the statutory rent shall be increased, for the period of 8 years following the date on which the furniture is provided, by one-eighth of the value of the furniture on the date that it is so provided.

## PART II.

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1. Where any reference is made in this Schedule to the payment of a statutory rent “exclusive of rates”, this shall be construed, subject to the provisions of the Act, as imposing upon the tenant the obligation to pay rates.
2. Where any reference is made in this Schedule to the payment of a statutory rent “inclusive of rates”, this shall be construed, subject to the provisions of the Act, as imposing upon the landlord the obligation to pay rates.

## SCHEDULE 2

Section 18

**POSSESSION OR EJECTION WITHOUT PROOF OF  
ALTERNATIVE ACCOMMODATION. ‘**

The court shall, for the purposes of section 18, have power to make or give an order or judgment for the recovery of possession of any dwellinghouse to which Part III applies or for the ejection of a tenant therefrom without proof of suitable alternative accommodation (where the court considers it reasonable so to do) if—

- (a) any rent lawfully due from the tenant has not been paid, or any other obligation of the tenancy (whether under the contract of tenancy or under Part III ), so far as the obligation is consistent with the provisions of Part III, has been broken or not performed;
- (b) the tenant or any person residing or lodging with him or being his sub-tenant has been guilty of conduct which is a nuisance or annoyance to adjoining occupiers, or has been convicted of using the premises or allowing the premises to be used for an immoral or illegal purpose, or the condition of the dwellinghouse has, in the opinion of the court, deteriorated owing to acts of waste by, or the neglect or default of, the tenant or any such person, and, where such person is a lodger or sub-tenant, the court is satisfied that the tenant has not, before the making or giving of the order or judgment, taken such steps as he ought reasonably to have taken for the removal of the lodger or sub-tenant:
- (c) the tenant has given notice to quit, and, in consequence of that notice, the landlord has contracted to sell or let the dwellinghouse or has taken any other steps as a result of which he would, in the opinion of the court, be seriously prejudiced if he could not obtain possession;
- (d) the tenant without the consent of the landlord has at any time after the coming into operation of this Act, assigned or sub-let the whole of the dwellinghouse or sub-let part of the dwellinghouse;
- (e) the dwellinghouse is so overcrowded as to be dangerous or injurious to the health of the inmates, and the court is satisfied that the overcrowding could have been abated by the removal of any lodger or sub-tenant (not being a parent or child of the

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tenant) whom it would, having regard to all the circumstances of the case, including the question whether other accommodation is available for him, have been reasonable to remove, and that the tenant has not taken such steps as he ought reasonably to have taken for his removal;

- (f) the dwellinghouse is reasonably required by the landlord for occupation as a residence for some person engaged in his whole-time employment or in the whole-time employment of some tenant from him or with whom conditional on housing accommodation being provided, a contract for such employment has been entered into, and the tenant was in the employment of the landlord or a former landlord, and the dwellinghouse was let to him in consequence of that employment and he has ceased to be in that employment;
- (g) the dwellinghouse is reasonably required by the landlord (being a landlord who has become landlord by purchasing the dwellinghouse or an interest therein before the commencement of this Act or not less than 5 years before the date of the application) for occupation as a residence for—
  - (i) himself; or
  - (ii) any son or daughter of himself or of his wife who is over the age of 18 years of age; or
  - (iii) his father or mother.

Provided that an order or judgment shall not be made or given on any ground specified in paragraph (g) of the preceding provisions of this Schedule if the court is satisfied that having regard to all the circumstances of the case, including the question whether other accommodation is available for the landlord or the tenant, greater hardship would be caused by granting the order or judgment than by refusing to grant it.

## SCHEDULE 3

Section 37

**PROVISIONS FOR THE PURPOSE OF PART IV WHERE THE IMMEDIATE LANDLORD IS NOT THE OWNER OF THE FEE SIMPLE.**

## DEFINITIONS.

1. In this Schedule the following expressions have the meanings hereby assigned to them in relation to a tenancy (in this Schedule referred to as “the relevant tenancy”), that is to say—

“the competent landlord” means the person who in relation to the tenancy is for the time being the landlord (as defined by section 37) for the purposes of Part IV;

“mesne landlord” means a tenant whose interest is intermediate between the relevant tenancy and the interest of the competent landlord; and

“superior landlord” means a person (whether the owner of the fee simple or a tenant) whose interest is superior to the interest of the competent landlord.

## POWER OF COURT TO ORDER REVERSIONARY TENANCIES.

2. Where the period for which in accordance with the provisions of Part IV it is agreed or determined by the court that a new tenancy should be granted thereunder will extend beyond the date on which the interest of the immediate landlord will come to an end, the power of the court under Part IV to order such a grant shall include power to order the grant of a new tenancy until the expiration of that interest and also to order the grant of such a reversionary tenancy or reversionary tenancies as may be required to secure that the combined effects of those grants will be equivalent to the grant of a tenancy for that period; and the provisions of Part IV shall, subject to the necessary modifications, apply in relation to the grant of a tenancy together with one or more reversionary tenancies as they apply in relation to the grant of one new tenancy.

## ACTS OF COMPETENT LANDLORD BINDING ON OTHER LANDLORDS.

3. (1) Any notice given by the competent landlord under Part IV to terminate the relevant tenancy, and any agreement made between that landlord and the tenant, as to the granting, duration, or terms of a future tenancy, being an agreement made for the purposes of Part IV, shall bind the interest of any



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mesne landlord notwithstanding that he has not consented to the giving of the notice or was not a party to the agreement.

(2) The competent landlord shall have power for the purposes of Part IV to give effect to any agreement with the tenant for the grant of a new tenancy beginning with the coming to an end of the relevant tenancy notwithstanding that the competent landlord will not be the immediate landlord at the commencement of the new tenancy, and any instrument made in the exercise of the power conferred by this sub-paragraph shall have effect as if the mesne landlord had been a party thereto.

(3) Nothing in the foregoing provisions of this paragraph shall prejudice the provisions of paragraph 4.

#### PROVISIONS AS TO CONSENT OF MESNE LANDLORD TO ACTS OF COMPETENT LANDLORD.

4. (1) If the competent landlord, not being the immediate landlord, gives any such notice or makes any such agreement as is mentioned in subparagraph (1) of paragraph 3 without the consent of every mesne landlord, any mesne landlord whose consent has not been given thereto shall be entitled to compensation from the competent landlord for any loss arising in consequence of the giving of the notice or the making of the agreement.

(2) if the competent landlord applies to any mesne landlord for his consent to such a notice or agreement, that consent shall not be unreasonably withheld, but may be given subject to any conditions which may be reasonable (including conditions as to the modification of the proposed notice or agreement or as to the payment of compensation by the competent landlord).

(3) Any question arising under this paragraph whether consent has been unreasonably withheld or whether any conditions imposed on the giving of consent are unreasonable shall be determined by the court.

#### CONSENT OF SUPERIOR LANDLORD REQUIRED FOR AGREEMENTS AFFECTING HIS INTEREST.

5. An agreement between the competent landlord and the tenant made for the purposes of Part IV in a case where—

- (a) the competent landlord is himself a tenant; and
- (b) the agreement would apart from this paragraph operate as respects any period after the coming to an end of the interest of the competent landlord,

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shall not have effect unless every superior landlord who will be the immediate landlord of the tenant during any part of that period is a party to the agreement.

## SCHEDULE 4

Section 84

### TRANSITIONAL PROVISIONS.

#### *Domestic Premises.*

1. Every person who was immediately before the commencement of this Act the tenant of a dwellinghouse to which the former Act then applied shall on the commencement of this Act, if the dwellinghouse is one to which Part III of this Act applies, be for the purposes of Part III of this Act the first tenant of the dwellinghouse.

2. Where, on the commencement of this Act, a dwellinghouse is one to which Part III of this Act applies, the landlord shall notwithstanding section 80A(2) pay into the reserve fund, during the prescribed period, one third of the recoverable rent received by him from the letting of the dwellinghouse, during the first 2 years that it is let after the commencement of this Act, and thereafter 15 per cent of the recoverable rent.

3. Where—

- (a) any improvements or structural alterations have been carried out to any dwellinghouse to which Part III applies at any time after the 1st day of January, 1945, but before the commencement of this Act; and
- (b) within 18 months after the commencement of this Act the landlord of the dwellinghouse applies to the Rent Tribunal—

the Rent Tribunal may make any order in respect of the dwellinghouse that it could have made under section 13 or section 22 on the application of the landlord if the improvements or structural alterations had been carried out after the commencement of this Act and where it makes such an order the provisions of section 13 or section 22 (as the case requires) shall apply to the dwellinghouse as they apply to applications made under that section.

4. Where a dwellinghouse to which Part III of this Act applies was let, immediately before the commencement of this Act, pursuant to section 7A of the former Act, and the statutory rent immediately before the commencement of this Act was greater than it would be if calculated under section 11 of this Act, that greater rent shall on the commencement of this Act be the statutory rent in respect of the dwellinghouse.

#### *Business Premises.*

5. Where on or after the 7th day of July, 1981, but before the commencement of this Act—

- (a) a landlord has given a notice under section 38 of the former Act to determine a tenancy; or
- (b) a tenant has under section 39 of the former Act made a request for a new tenancy—

and the other party in either case has not within the relevant time limits specified in Part III of the former Act taken any of the steps that he may or must take in consequence of such a notice or request, the time for taking such a step shall, notwithstanding any other provision in the former Act or in this Act, commence on the date of commencement of this Act.

*General.*

6. Where—

- (a) any application has been made to or any proceeding has been instituted before any court or the Rent Assessment Tribunal or any other authority under the former Act; and
- (b) that application or proceeding has not been determined before the commencement of this Act; and
- (c) the application or proceeding could have been brought under this Act if this Act had been in operation when it was made or instituted (whether or not it could have been brought before the same court, tribunal or authority)—

the court, Tribunal or authority before whom it was brought shall notwithstanding section 83 of this Act, continue to have jurisdiction to hear and determine it in accordance with the provisions of this Act.

7. If it appears to the Governor to be desirable to do so, he may for such period as he may specify appoint, in addition to the Rent Assessor provided for in section 5, one or more other fit and proper persons to be Rent Assessors; and every additional Rent Assessor so appointed shall, during the term of his appointment and thereafter until he has disposed of all matters referred to him during that term, have all the functions, powers and duties of the Rent Assessor appointed under section 5.

SCHEDULE 5

Sections 44 and 49

RECOVERY OF BUSINESS PREMISES. PART I.

1. Subject to Part II of this Schedule, the period during which a notice must be given under section 44(2) shall be not more than 12 months nor less than 6 months before the date of termination specified in the notice.

PART II.

2. Where a landlord opposes an application for the grant of a new tenancy on any ground specified in paragraph (d) or paragraph (e) section 49(1)–
  - (a) in the case where the landlord under section 44(2) has given notice, notwithstanding any other provision in this Act, the current tenancy shall not come to an end before the appropriate period, specified in the second column of the Table to this paragraph, immediately following the date of termination of the tenancy; and
  - (b) the amount of the compensation referred to in section 49(2) shall be calculated in accordance with the Table.

TABLE.

<i>Period of Occupation of the premises under the current and any previous tenancy agreement.</i>	<i>Extended term of tenancy.</i>	<i>Compensation payable under section 49(2).</i>
1. Not more than 5 years	12 months	4 times the net annual value of the holding
2. More than 5 years but not more than 7 years	12 months	5 times the net annual value of the holding
3. More than 7 years but not more than 10 years	15 months	6 times the net annual value of the holding
4. More than 10 years but not more than 15 years	18 months	7 times the net annual value of the holding
5. More than 15 years	24 months	9 times the net annual

but not more than 20 years		value of the holding
6. More than 20 years	36 months	12 times the net annual value of the holding

3. Notwithstanding paragraph 2 of this Part of this Schedule where the amount of  $\frac{5}{6}$  of the actual annual rental payable under the current tenancy is greater than the amount prescribed in the column of the Table, that greater amount shall be the amount of compensation payable.

4. In addition to the compensation payable under paragraphs 2 and 3 of this Part of this Schedule, the court may, in any particular case where the tenant has at his own expense during the current tenancy effected structural alterations of a permanent nature to the holding, order that for the purpose of section 49(2) additional compensation not exceeding 3 times the net annual value of the holding or  $\frac{5}{6}$  of the actual annual rental payable under the current tenancy (whichever is the greater) shall also be payable by the landlord to the tenant.

5. In this Part of this Schedule, references to the net annual value and to the actual rental value are references to such values at the date on which the application for the grant of the new tenancy is determined.