Short title, citation, extent and repeal.

2.—(1) This Act may be cited as the Telegraph Act, 1951, and the Telegraph Acts, 1863 to 1949, and this Act may be cited together as the Telegraph Acts, 1863 to 1951.

(2) It is hereby declared that this Act extends to Northern Ireland.

(3) This Act shall extend to the Channel Islands, and the Royal Courts of the Channel Islands shall register this Act accordingly.

(4) This Act shall extend to the Isle of Man.

(5) The Telegraph Act, 1943, is hereby repealed.

CHAPTER 38

Leasehold Property (Temporary Provisions) Act, 1951

ARRANGEMENT OF SECTIONS

PART I

DWELLINGS

Section.
1. Continuation of expiring long tenancy where tenant in occupation.
2. Provision where tenant holding over after expiry of long tenancy.
3. Power of landlord to determine continued tenancy in event of assignment or sub-letting.
4. Notice by tenant to stop continuation.
5. Restrictions on enforcement of covenants.
6. Power of landlord to carry out essential repairs.
7. Provision where long tenancy determined and sub-tenant, etc., in occupation.
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PART II

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10. Renewal of tenancies of shops.
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SCHEDULES:

First Schedule.—Transitional Provisions relating to section two.
Second Schedule.—Consequential relief of mesne tenants.

An Act to make temporary provision for the protection of occupiers of residential property against the coming to an end of long leases, and for the renewal of tenancies of shops; and for purposes connected with the matters aforesaid. [22nd June 1951.]

BE it enacted by the King's most Excellent Majesty, by and with the advice and consent of the Lords Spiritual and Temporal, and Commons, in this present Parliament assembled, and by the authority of the same, as follows:—

PART I

DWELLINGS

Continuation of expiring long tenancy where tenant in occupation.

1. Where a tenancy was granted for a term of years certain, being a term exceeding twenty-one years and expiring on a date (hereinafter referred to as " the date of expiry ") falling within the period of two years beginning with the commencement of this Act, and immediately before the date of expiry the tenant or a member of his family is residing in a dwelling-house comprised in the property in right of the tenancy, then subject to the provisions of this Part of this Act the tenancy shall continue after the date of expiry as if it had been granted for a term expiring at the end of the said period of two years but otherwise (save as hereinafter provided) on the terms and subject to the conditions of the tenancy.

Provision where tenant holding over after expiry of long tenancy.

2.—(1) Where a tenancy was granted for a term of years certain, being a term exceeding twenty-one years and expiring on a date (hereinafter referred to as " the date of continuation ") before the commencement of this Act, and—

(*a*) immediately before the date of continuation the tenant or a member of his family was residing in a dwelling-house comprised in the property in right of the tenancy, and

(*b*) at all times during the period beginning with the date of continuation and ending with the commencement of this Act there was residing in the dwelling-house in question some person being either the former tenant or a member of the former tenant's family, and

(*c*) at all times during the period mentioned in the last foregoing paragraph at which any such person was residing in the dwelling-house in question he was residing there either not in right of any tenancy or agreement or in right of a tenancy or agreement (whether express or implied) which—

(i) was at a rent, or in consideration of a payment in the nature of rent, of the like amount as the rent payable immediately before the date of continuation,

PART I —*cont.*

(ii) was not granted, made or renewed for a consideration which included the payment of a premium or of a sum in the nature of a premium, and

(iii) was such as to expire, or to be capable of being terminated by notice to quit, at a time (whether before or after the commencement of this Act) earlier than the expiration of two years after the commencement of this Act, and

(*d*) if immediately before the date of continuation the tenant or a member of his family was in right of the tenancy residing in part only of the property, then at no time during the period mentioned in paragraph (*b*) of this subsection was there in possession of some other part of the property any person not being the former tenant or a person claiming under him or a person holding over after the coming to an end of a sub-tenancy created (immediately or derivatively) out of the tenancy,

the next following subsection shall have effect.

(2) The tenancy shall be deemed not to have expired on the date of continuation but to have continued until the commencement of this Act, and subject to the provisions of this Part of this Act shall continue thereafter, as if it had been granted for a term expiring at the end of the period of two years beginning with the commencement of this Act but otherwise (save as hereinafter provided) on the terms and subject to the conditions of the tenancy.

(3) The transitional provisions of the First Schedule to this Act shall have effect for the purposes of this section.

(4) A tenancy continued by this section shall be deemed to be, and as from the date of continuation to have been, an overriding interest specified in subsection (1) of section seventy of the Land Registration Act, 1925 (which specifies interests subject to which a registered title has effect notwithstanding that they do not appear on the register).

(5) In this section the expression " the former tenant " means the person who was the tenant immediately before the date of continuation.

Power of landlord to determine continued tenancy in event of assignment or sub-letting.

3.—(1) If at any time after the date of expiry—

(*a*) an assignment by the tenant takes effect (whether in law or in equity), being an assignment affecting the whole or any part of the living accommodation comprised in a tenancy continued by section one of this Act, and not being an assignment in pursuance of a requirement imposed by the landlord, or

PART I —*cont.*

(*b*) every part of such accommodation is either subject to a sub-tenancy created (whether immediately or derivatively and whether before or after the date of expiry) out of the tenancy or occupied by a person holding over after the coming to an end of such a sub-tenancy,

the landlord may by notice given at or after that time determine the tenancy on such date, not being earlier than the expiration of one month from the giving of the notice, as may be specified therein.

(2) The last foregoing subsection shall apply to tenancies continued by section two of this Act, but with the substitution for references to the date of expiry of references to the commencement of this Act.

Notice by tenant to stop continuation.

4.—(1) Where the tenant under a tenancy granted for such a term as is mentioned in section one of this Act has given to the landlord, not later than one month before the date of expiry, notice that the tenant does not desire his tenancy to be continued, the said section one shall not have effect in relation to the tenancy.

(2) Where the tenant under such a tenancy as aforesaid has given to the landlord, whether before or after the date of expiry, notice that the tenant desires the tenancy to come to an end on a date specified in the notice, being a date after the date of expiry and not earlier than one month after the giving of the notice, the tenancy shall come to an end on the specified date.

(3) Where in the case of a tenancy continued by section two of this Act the tenant has given to the landlord notice that the tenant desires the tenancy to come to an end on a date specified in the notice, being a date after the commencement of this Act and not earlier than one month after the giving of the notice, the tenancy shall come to an end on the specified date.

(4) A notice shall have effect for the purposes of either of the two last foregoing subsections if given at any time after the twenty-first day of November, nineteen hundred and fifty.

(5) Nothing in subsection (2) or (3) of this section shall be construed as enabling the tenant to prolong a tenancy beyond the expiration of two years after the commencement of this Act.

Restrictions on enforcement of covenants.

5.—(1) While a tenancy continues by virtue of section one or section two of this Act, or while before the date of expiry the tenant under a tenancy granted for such a term as is mentioned in the said section one, or a member of the tenant's family, is residing in a dwelling-house comprised in the property in right of the tenancy, then—

(*a*) the landlord shall not be entitled, by action or otherwise, to enforce any right of forfeiture or re-entry in respect

of any failure to comply with a term or condition of the tenancy, or to bring any action against the tenant for damages in respect of such a failure; and

(*b*) the enforcement by a superior landlord, by action or otherwise, of a right of forfeiture or re-entry in respect of a superior term shall not determine the tenancy:

Provided that nothing in paragraph (*a*) of this subsection shall affect forfeiture or re-entry for non-payment of rent or rates or for failure to comply with any obligation to insure or keep insured, and that nothing in paragraph (*a*) or (*b*) of this subsection shall apply to the enforcement of any right or the bringing of any action on the ground of the use of the property or part thereof for illegal or immoral purposes, unless (in the case of a past such use) there has since been a change in the ownership of the tenancy.

(2) Where a tenancy is continued by section two of this Act, and during the period beginning with the date of continuation and ending with the commencement of this Act a superior landlord has (whether by action or otherwise) enforced a right of forfeiture or re-entry in respect of a superior term, the enforcement thereof shall be deemed not to have determined the continued tenancy.

(3) Where the landlord is prevented by paragraph (*a*) of subsection (1) of this section from bringing an action for damages in respect of anything done by the tenant in breach of a term or condition of the tenancy, a county court as well as the High Court shall have jurisdiction to grant an injunction to restrain the doing of that thing.

(4) Where any proceedings have been brought after the twenty-first day of November, nineteen hundred and fifty and before the commencement of this Act but have not been finally disposed of before the commencement of this Act, being proceedings which by virtue of subsection (1) of this section could not have been entertained if they had been brought immediately after the commencement of this Act, then—

(*a*) in so far as the proceedings are for enforcement of any right of forfeiture or re-entry, they shall be stayed except as respects the making of an order as to costs;

(*b*) no judgment or order given or made in the proceedings for the payment of damages shall be enforceable until the expiration of two years after the commencement of this Act or the coming to an end of the tenancy whichever first occurs.

(5) In this section the expression " superior term ", in relation to a tenancy mentioned in subsection (1) or (2) of this section, means a tenancy in reversion (whether immediate or not) expectant upon the termination of the tenancy mentioned in

PART I —*cont.*

that subsection, and the expression " superior landlord " means a person who is the landlord in relation to a tenancy which is a superior term.

(6) The reference in paragraph (*a*) of subsection (1) of this section to the bringing of an action against the tenant for damages in respect of a failure to comply with a term or condition of the tenancy shall be construed as including a reference to the bringing of an action for the recovery from the tenant of expenditure incurred by or recovered from the landlord in consequence of such a failure on the part of the tenant, and the reference in paragraph (*b*) of subsection (4) of this section to a judgment or order for the payment of damages shall be construed accordingly.

(7) References in this section to the bringing of an action include references to the setting up in any proceedings of a claim by way of counterclaim.

(8) The provisions of the Second Schedule to this Act shall have effect for the relief of mesne tenants in the cases specified in that Schedule.

Power of landlord to carry out essential repairs.

6.—(1) While a tenancy continues by virtue of section one or section two of this Act, or while before the date of expiry the tenant under a tenancy granted for such a term as is mentioned in the said section one, or a member of the tenant's family, is residing in a dwelling-house comprised in the property in right of the tenancy, the following provisions shall have effect.

(2) The landlord or any superior landlord, or the agent or surveyor of either, shall be entitled (whether or not the terms and conditions of the tenancy so provide) at any reasonable time to enter on the property and examine the state of repair and condition thereof, and after giving reasonable notice to enter on the property and carry out any work reasonably required for preventing or arresting any serious depreciation in the condition of the property or of adjoining property.

(3) In so far as any expenditure in respect of the execution of work on the property—

(*a*) incurred by the landlord (whether by virtue of the last foregoing subsection or by virtue of any of the terms and conditions of the tenancy), or

(*b*) incurred by some other person and recovered from the landlord,

was reasonably required in consequence of failure by the tenant to comply with any of the said terms and conditions, the expenditure shall be recoverable by the landlord from the tenant whether or not those terms and conditions so provide.

(4) The last foregoing subsection shall have effect subject to the provisions of the last foregoing section; but nothing in

PART I —*cont.*

subsection (2) of this section or in the last foregoing subsection shall be construed as derogating from any of the terms and conditions of a tenancy.

Provision where long tenancy determined and sub-tenant, etc., in occupation.

7.—(1) Where a tenancy (hereinafter referred to as "the superior tenancy") granted for a term of years certain exceeding twenty-one years and not for the time being subject to a tenancy granted for such a term comes to an end (whether by effluxion of time, act of the parties, or for any other reason) before the expiration of two years after the commencement of this Act, and immediately before the coming to an end thereof—

(*a*) a person having a right of occupation derived from the superior tenancy, or

(*b*) a member of such a person's family,

is residing in a dwelling-house comprised in the property by virtue of that right, the rights and liabilities of the said person and of any other person for the time being having a right of occupation derived from the superior tenancy (including in particular the benefit of any restriction on the making of an order or giving of a judgment for possession or ejectment) shall thereafter, in relation to the person who is for the time being the reversioner, be such rights and liabilities as they would have been if the superior tenancy had continued until the expiration of two years after the commencement of this Act and had throughout the time it continued been vested, without merger, in the person who is for the time being the reversioner:

Provided that where the superior tenancy comes to an end by surrender or merger nothing in this subsection shall be construed as requiring a sub-tenancy created (immediately or derivatively) out of the superior tenancy to be treated as coming to an end before it would have come to an end if this section had not been passed.

(2) Where a tenancy (hereinafter referred to as "the superior tenancy") granted for a term of years certain exceeding twenty-one years and not for the time being subject to a tenancy granted for such a term came to an end (whether by effluxion of time, act of the parties, or for any other reason) before the commencement of this Act, and—

(*a*) immediately before the coming to an end thereof a person having a right of occupation derived from the superior tenancy, or a member of such a person's family, was residing in a dwelling-house comprised in the property by virtue of that right, and

(*b*) at all times during the period beginning with the coming to an end of the superior tenancy and ending with the commencement of this Act there was residing in the

PART I —*cont.*

dwelling-house some person being either the person who had the said right or a member of his family,

the last foregoing subsection shall apply, and be deemed to have applied, as if it had been in operation immediately before the coming to an end of the superior tenancy.

(3) In subsection (1) of this section the expression " the reversioner " means the person entitled to possession of the dwelling-house in question against any person not having a right of occupation derived from the superior tenancy.

(4) References in this section to a right of occupation derived from the superior tenancy are references to a right of occupation—

(*a*) arising from ownership of a sub-tenancy created immediately out of the superior tenancy, being a sub-tenancy lawfully so created, or

(*b*) arising from ownership of a sub-tenancy created (immediately or derivatively) out of such a sub-tenancy as is mentioned in the last foregoing paragraph, or

(*c*) arising, after the coming to an end of any sub-tenancy specified in the two last foregoing paragraphs, from the operation of the Rent and Mortgage Interest (Restrictions) Acts, 1920 to 1939, in relation to a person as being the former owner of the sub-tenancy or as being the widow of, or otherwise related to, the former owner thereof.

Application of Part I to tenancies and sub-tenancies held on trust.

8.—(1) The following provisions shall have effect for applying this Part of this Act to the case of a tenancy or sub-tenancy vested in trustees, or held as part of the estate of a deceased person.

(2) Where a tenancy was granted for such a term as is mentioned in section one of this Act, then—

(*a*) if the tenancy was so vested or held as aforesaid immediately before the date of expiry, references in the said section one to the tenant shall include references to a person beneficially interested (whether directly or derivatively) under the trusts or, as the case may be, in the estate of the deceased person or under trusts of which the deceased person was trustee;

(*b*) if the tenancy was so vested or held at any time before the date of expiry, references in subsection (1) of section five of this Act to the tenant shall as respects that time include references to a person beneficially interested as aforesaid.

(3) Where a tenancy was granted for such a term as is mentioned in subsection (1) of section two of this Act and was so

PART I —*cont.*

vested or held as aforesaid immediately before the date of continuation, references in section two of this Act to the tenant shall include references to a person beneficially interested as aforesaid.

(4) In section three of this Act the expression " assignment " does not include a disposition under which no beneficial interest passes; but the reference in that section to the tenant shall, in relation to a tenancy so vested or held as aforesaid, include a reference to a person beneficially interested as aforesaid.

(5) The last foregoing section shall have effect, in relation to a sub-tenancy so vested or held as mentioned in subsection (1) of this section, as if a right or permission to occupy arising by reason of a beneficial interest (whether direct or derivative) under the trusts or, as the case may be, in the estate of the deceased person or under trusts of which the deceased person was trustee were a right of occupation arising from ownership of the sub-tenancy.

(6) Notwithstanding anything in section two of this Act or subsection (3) of this section, Part II of the First Schedule to this Act shall not have effect in the case of a tenancy which immediately before the date of continuation was vested or held as mentioned in subsection (1) of this section.

Application of Part I to tenancies for lives.

9.—(1) The following provisions shall have effect for applying this Part of this Act to tenancies which by virtue of subsection (6) of section one hundred and forty-nine of the Law of Property Act, 1925, take effect as tenancies for a term of ninety years determinable by notice after the occurrence of a death or marriage.

(2) Where the ninety years have not expired, such a tenancy shall be treated for the purposes of this Part of this Act as if it had been granted for a term of years certain exceeding twenty-one years and not determinable by notice as aforesaid and as if the date on which that term expired or would expire were the date of the occurrence of the death or marriage.

(3) If the death or marriage has not occurred before the expiration of the ninety years, such a tenancy shall be treated for the purposes of this Part of this Act as a tenancy granted for a term of years certain of ninety years.

PART II

SHOPS

Renewal of tenancies of shops.

10.—(1) The provisions of this Part of this Act shall have effect for enabling the occupier of a shop under a tenancy to which this section applies (hereinafter referred to as " the expiring tenancy ") to apply to the court for, and subject to the provisions of this Act to obtain, the grant of a new tenancy where

PART II —*cont.*

apart from the next following section the expiring tenancy would come to an end immediately before the date of the commencement of this Act or within the period of two years beginning with that date, and would so come to an end by effluxion of time or by the expiration of a notice to quit given by the landlord, whether before or after the commencement of this Act.

(2) This section applies to a tenancy the subject of which—

(*a*) consists of a shop, or

(*b*) consists of a shop and of living accommodation occupied wholly or mainly by the tenant or by a person who is employed by the tenant for the purposes of the retail trade or business carried on in the shop, or

(*c*) includes a separate part which consists of a shop or which consists of a shop and of such living accommodation as is mentioned in the last foregoing paragraph:

Provided that this section does not apply to a tenancy granted in pursuance of subsection (2) of section four of the War Damaged Sites Act, 1949.

(3) In the case of an expiring tenancy the subject of which falls within paragraph (*a*) or (*b*) of the last foregoing subsection, any new tenancy granted under this Part of this Act shall be a tenancy of the whole of the subject of the expiring tenancy.

(4) In the case of an expiring tenancy the subject of which falls within paragraph (*c*) of subsection (2) of this section and not within paragraph (*b*) thereof, any new tenancy granted under this Part of this Act shall if the landlord so requires be a tenancy of the whole of the subject of the expiring tenancy, and otherwise a tenancy of the separate part consisting of the shop or consisting of the shop and of living accommodation, as the case may be:

Provided that, where the landlord does not require the new tenancy to be of the whole of the subject of the expiring tenancy, and—

(*a*) the subject of the expiring tenancy includes a separate part consisting of a shop and another separate part consisting of living accommodation occupied wholly or mainly by the tenant or by a person who is employed by the tenant for the purposes of the retail trade or business carried on in the shop, and

(*b*) an application is made in that behalf,

the new tenancy shall unless the court in its discretion otherwise determines be a tenancy of the separate part consisting of the shop and the separate part consisting of the living accommodation.

PART II —*cont.*

(5) Any question arising under the foregoing provisions of this section whether a part of premises should be treated as a separate part for the purposes of the grant of a new tenancy shall be determined by the court on the hearing of the application.

Time for, and interim effect of, application for new tenancy.

11.—(1) An application under this Part of this Act for the grant of a new tenancy shall—

(*a*) if apart from this section the expiring tenancy would expire by effluxion of time, not be made later than one month before the date on which that tenancy would so expire;

(*b*) if apart from this section the expiring tenancy would come to an end by notice to quit given by the landlord, be made after the giving of the notice to quit and not later than one month thereafter:

Provided that where the latest time limited by the foregoing provisions of this subsection would fall before the end of one month beginning with the commencement of this Act, an application may be made not later than the end of that month.

(2) Where apart from this section the expiring tenancy would expire by effluxion of time, the landlord may at any time not earlier than four months before the date on which that tenancy would so expire serve on the tenant notice, in such form and containing such particulars as to the provisions of this Part of this Act as may be prescribed by regulations made by the Lord Chancellor by statutory instrument, requiring the tenant within the period of one month from the date of the service of the notice to elect whether or not to make an application under this Part of this Act; and where such a notice is served no such application shall be made in relation to the expiring tenancy after the end of that period.

(3) Where such an application is duly made and the expiring tenancy would apart from this section come to an end before the relevant date, then—

(*a*) if the expiring tenancy would so come to an end after the application is made, it shall be treated as continuing until the relevant date;

(*b*) if the expiring tenancy would have so come to an end at a time before the application is made, it shall be treated as having continued since that time until the application is made and as continuing thereafter until the relevant date.

(4) The relevant date for the purposes of the last foregoing subsection, in relation to an application—

(*a*) unless the application is withdrawn, is the date falling one month after the date on which the proceedings on the application (including any proceedings on or in consequence of an appeal) are finally determined;

PART II —*cont.*

(*b*) if the application is withdrawn, is the date falling one month after the withdrawal of the application.

Power of court to grant new tenancies of shops.

12.—(1) Subject to the provisions of this section, on an application under this Part of this Act duly made the court may, if in all the circumstances of the case it appears reasonable so to do, order that there shall be granted to the tenant a tenancy for such period, at such rent and on such terms and conditions as the court in all the circumstances thinks reasonable, and thereafter the parties shall be deemed to have entered into a lease of the shop, premises or part of premises (as the case may be) creating such a tenancy:

Provided that in fixing the rent, terms and conditions the court shall disregard any considerations arising from the personal circumstances of any of the parties.

(2) The period for which under the last foregoing subsection a tenancy may be ordered to be granted shall be a period, not exceeding one year, beginning with the end of the expiring tenancy (whether it ends in accordance with the terms thereof or after being continued by subsection (3) of the last foregoing section).

(3) The court shall not order the grant of a new tenancy if it is satisfied—

(*a*) that the tenant has broken any of the terms or conditions of the expiring tenancy, and that in view of the nature and circumstances of the breach a new tenancy ought not to be granted; or

(*b*) that the landlord has offered to afford to the tenant, on terms and conditions which in the opinion of the court are reasonable, alternative accommodation which, in the opinion of the court, is suitable for the purposes of the tenant's business; or

(*c*) that the landlord reasonably requires possession in order that the premises the subject of the expiring tenancy, or a substantial part of those premises, may be demolished or reconstructed; or

(*d*) where there subsists in the premises an interest belonging to a public authority, that in the public interest a new tenancy ought not to be granted; or

(*e*) that having regard to all the circumstances of the case greater hardship would be caused by ordering the grant of a new tenancy than by refusing to do so.

The reference in paragraph (*d*) of this subsection to an interest belonging to a public authority is a reference to an interest belonging to a Government department or held on behalf of His Majesty for the purposes of a Government department or held by a local authority (as defined in the Town and Country

PART II —*cont.*

Planning Act, 1947), by statutory undertakers (as so defined) or by a development corporation (as defined in the New Towns Act, 1946).

(4) Where at the commencement of this Act any authority is empowered by any enactment or order to purchase compulsorily any land specifically described in that enactment or order or is empowered by an authorisation given under section two of the Acquisition of Land (Authorisation Procedure) Act, 1946, to take possession of any land, there shall, for the purposes of the last foregoing subsection, be deemed, during a period of six months from the commencement of this Act or during such period as the authority remains so empowered as aforesaid (whichever period first expires) to be subsisting in that land an interest belonging to that authority.

(5) It is hereby declared that where the grant of a new tenancy has been ordered under this section, section ten of this Act shall apply as if the tenancy had been granted by agreement between the landlord and the tenant.

(6) A tenancy ordered to be granted under this section shall, where the reversion is subject to a mortgage, be deemed to be a tenancy created by a lease authorised by section ninety-nine of the Law of Property Act, 1925.

Power of court to grant new tenancy where landlord a tenant.

13. Where in the case of a tenancy the reversion is itself a tenancy, and the period for which in accordance with the last foregoing section the court proposes to order the grant of a new tenancy will extend beyond the date on which the reversion will come to an end, the power of the court under that section shall include power to order such a grant until the end of the reversion and also to order the grant of such a reversionary tenancy or reversionary tenancies as may be required to secure that the combined effect of those grants will be equivalent to the grant of a tenancy for the said period; and the provisions of this Part of this Act shall, subject to the necessary modifications, apply to the grant of a tenancy and one or more reversionary tenancies.

Provisions as to Landlord and Tenant Act, 1927.

14.—(1) In relation to the granting of tenancies under this Part of this Act, the following provisions shall have effect as respects the Landlord and Tenant Act, 1927.

(2) The provisions of Part I of the said Act of 1927 shall not apply in relation to tenancies granted under this Part of this Act.

(3) Nothing in this Part of this Act shall affect the time at which a tenancy is to be treated as terminating for the purposes of the said Part I; and a tenant who by virtue of this Part of this Act remains in occupation of any premises or part of premises after

PART II —*cont.*

the expiring tenancy would apart from this Part of this Act have come to an end shall be treated for those purposes as having quitted his holding on the termination of that tenancy.

(4) In considering, for the purposes of section four of the said Act of 1927, whether the tenant or his predecessors in title has or have carried on a trade or business at any premises for the period of five years specified in subsection (1) of that section, a period of occupation of the premises by virtue of this Part of this Act shall not count towards completion of the said five years, but shall notwithstanding anything in the last foregoing subsection be treated as not breaking the continuity of immediately preceding and succeeding periods of occupation of the premises.

(5) Notwithstanding anything in this Part of this Act, the following provisions shall have effect as respects claims by the tenant for compensation under Part I of the said Act of 1927 and notices by the landlord under paragraph (*d*) of subsection (1) of section two of that Act or paragraph (*b*) of the proviso to subsection (1) of section four thereof (which paragraphs exclude compensation where within the specified period of two months the landlord serves on the tenant such a notice for the renewal of the tenancy as is therein mentioned):—

(*a*) no application shall be made under this Part of this Act for the grant of a new tenancy if the tenant has duly claimed such compensation as aforesaid and the landlord has within the said period of two months served such a notice as aforesaid;

(*b*) where an application is made under this Part of this Act at a time when the tenant has duly claimed such compensation and when the landlord has not served such a notice as aforesaid but the said period of two months has not expired, the application shall not be heard until that period has expired, and if within that period the landlord serves such a notice the application shall be dismissed;

(*c*) where at the time such an application is made the tenant has not duly claimed such compensation but the time for claiming it has not expired, the application shall not be heard before the expiration of that time, and if before the expiration thereof the tenant duly makes a claim the last foregoing paragraph shall apply as it applies where the application under this Part of this Act is made after the making of a claim for compensation.

(6) Where the tribunal under the said Act of 1927 has made an interim order under subsection (13) of section five of that Act and subsequently determines not to order the grant of a new tenancy under subsection (2) of that section, the said tribunal

may if it thinks fit direct that the possession of the tenant under the interim order shall be treated as if it were a tenancy granted under this Part of this Act, and where it so directs the time within which an application for the grant of a further new tenancy may be made under this Part of this Act shall be such as the tribunal may direct. PART II —*cont.*

Appeals.

15.—(1) No appeal shall be brought from any determination or order of the court under this Part of this Act except with the leave of the court.

(2) Notwithstanding anything in subsection (3) of section eleven of this Act, the court granting leave to appeal may direct that during the period beginning with the granting of leave to appeal and ending with the date to which a tenancy is continued by the said subsection (3) the tenancy shall have effect subject to such modifications, terms or conditions as that court may specify.

PART III

GENERAL

Application to Crown.

16.—(1) Except in so far as it is otherwise expressly provided, this Act shall apply where there is an interest belonging to His Majesty in right of the Crown or to a Government department, or held on behalf of His Majesty for the purposes of a Government department, in like manner as where no such interest subsists.

(2) Where an interest in any land belongs to a Government department, or is held on behalf of His Majesty for the purposes of a Government department, and the Minister or Board in charge of any Government department is satisfied that for reasons of national security it is necessary that the use or occupation of the land should be discontinued or changed, the Minister or Board may certify that this subsection applies to the land; and where such a certificate is given no order shall be made under Part II of this Act for the grant of a new tenancy comprising the land or any part thereof.

Provision where tenancy continued or granted to endure beyond reversion.

17.—(1) Where by virtue of any provision of this Act a tenancy (in this subsection referred to as "the inferior tenancy") is continued or granted 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 section two of this Act a tenancy is deemed to have continued during the period from the date of

PART III —*cont.*

continuation until the commencement of this Act, the last foregoing subsection shall be deemed to have applied in relation to that tenancy and any superior tenancy.

(3) In the case of a tenancy continuing, by virtue of any of the provisions of Part I of this Act or by virtue of subsection (3) of section eleven thereof, after the coming to an end of the reversion, subsection (1) of section one hundred and thirty-nine of the Law of Property Act, 1925 (which relates to the effect of the extinguishment of a reversion) shall apply and (if the tenancy was continued by section two of this Act) be deemed to have applied as if references in the said subsection (1) to the surrender or merger of the reversion included references to the determination of the reversion for any reason other than surrender or merger.

Exercise of jurisdiction of court.

18. Subject to the provisions of section one hundred and eleven of the County Courts Act, 1934 (which provides for the removal into the High Court of any proceedings commenced in a county court) the jurisdiction of the court under Part II of this Act or the First Schedule thereto shall be exercised by a county court.

Service of notices.

19. Section twenty-three of the Landlord and Tenant Act, 1927, shall apply to the service of notices for the purposes of this Act, and be deemed to have applied to the service of notices for the purposes of section four thereof.

Interpretation.

20.—(1) In this Act the following expressions have the meanings hereby assigned to them respectively, that is to say:—

"dwelling-house" means a house or a part of a house, being a house or a part normally used as a dwelling;

"the landlord", in relation to a tenancy, means the person for the time being entitled to the reversion and, where the reversion is subject to a mortgage and the mortgagee is in possession or he or a receiver appointed by him or by the court is in receipt of the rents and profits, includes that mortgagee and any such receiver as aforesaid;

"mortgage" includes a charge or lien and "mortgagee" shall be construed accordingly;

"notice to quit" includes a notice to determine a term of years certain, but does not include a notice requiring possession where section one hundred and twenty-one of the Lands Clauses Consolidation Act, 1845, applies;

"the property", in relation to a tenancy, means the aggregate of the land comprised in the tenancy;

"retail trade or business" has the same meaning as in the Shops Act, 1950, except that it does not include the

PART III —*cont.*

sale of intoxicating liquor for consumption on the premises or the sale of meals or refreshments in premises which are licensed for the sale of intoxicating liquor for consumption on the premises, so however that this exception shall not have effect where either—

(*a*) the excise licence for the time being in force in respect of the premises is a licence the duty in respect of which is the reduced duty payable under section forty-five of the Finance (1909-10) Act, 1910, or a licence granted in pursuance of regulations under subsection (5) of the said section forty-five (which relates to the granting of licences on the provisional payment of reduced duty) or

(*b*) the Commissioners of Customs and Excise certify that no application under the said section forty-five has been made in respect of the period for which the excise licence for the time being in force was granted, but that if such an application had been made such a licence could properly have been granted as is mentioned in the last foregoing paragraph;

" the reversion ", in relation to a tenancy, means the interest which, not being a mortgage term and apart from any such term, is for the time being in reversion immediately expectant upon the termination of the tenancy;

" shop " means premises occupied wholly for business purposes, and so occupied wholly or mainly for the purposes of a retail trade or business;

" tenancy " means a tenancy created either immediately or derivatively out of the freehold, whether by a lease or underlease, by an agreement for a lease or underlease or by a tenancy agreement, but does not include any relationship between a mortgagor and mortgagee as such;

" the tenant ", in relation to a tenancy, means the person for the time being entitled to the tenancy.

(2) Unless the context otherwise requires, any reference in this Act to any enactment shall be construed as a reference to that enactment as amended by any subsequent enactment.

Short title, commencement and extent.

21.—(1) This Act may be cited as the Leasehold Property (Temporary Provisions) Act, 1951.

(2) This Act shall come into operation on the twenty-fourth day of June, nineteen hundred and fifty-one.

(3) This Act shall not extend to Scotland or to Northern Ireland.

SCHEDULES

Sections 2, 18.

FIRST SCHEDULE

TRANSITIONAL PROVISIONS RELATING TO SECTION TWO

PART I

General transitional provisions

1. The provisions of this Part of this Schedule shall have effect in any case where a tenancy is continued by section two of this Act.

2. The continued tenancy shall be treated as having effect, and as having had effect, in substitution for any other tenancy or agreement (whether express or implied) by virtue of which the former tenant or a member of his family remained in occupation of the property or part thereof at any time during the period beginning with the date of continuation and ending with the commencement of this Act, and any payment made or other thing done in pursuance of any such tenancy or agreement shall be treated accordingly.

3. Subject to the last foregoing paragraph, any penalty, mesne profits or other sum paid to the landlord before the commencement of this Act in respect of the occupation of the property or part thereof, or the receipt of rents and profits thereof, by the former tenant or a member of his family since the date of continuation shall be brought into account, so far as it will extend, against rent payable under the continued tenancy from the date of continuation onwards.

4. Any order or judgment made or given against the former tenant or his personal representatives or a member of his family before the commencement of this Act, in so far as it provides—

(*a*) for the landlord's obtaining possession of the property or any part thereof, or

(*b*) for the payment to the landlord of any such penalty, mesne profits or other sum as is mentioned in the last foregoing paragraph,

and has not been complied with, shall cease to have effect.

Section 8.

PART II

Provisions where tenant dies after date of continuation and before commencement of Act

5. The provisions of this Part of this Schedule shall have effect in the case of a tenancy which is continued by section two of this Act, where the former tenant has died during the period beginning with the date of continuation and ending with the commencement of this Act.

6. If at the commencement of this Act only one member of the former tenant's family who was of full age immediately before the death of the former tenant is residing in the dwelling-house in question in circumstances specified in paragraph (*c*) of subsection (1) of section two of this Act, the continued tenancy shall be deemed to have vested in that member of the family immediately before the death of the former tenant.

1ST SCH. —*cont.*

7.—(1) If at the commencement of this Act two or more persons, being members of the former tenant's family who were of full age immediately before his death, are residing in the dwelling-house in question in circumstances specified in paragraph (*c*) of subsection (1) of section two of this Act, the following provisions of this paragraph shall have effect.

(2) Subject to the next following sub-paragraph, if one of those persons, with the consent in writing of the other or others of them, gives to the landlord notice that he claims the tenancy, the continued tenancy shall be deemed to have vested in that person immediately before the death of the former tenant.

(3) If at any time after the commencement of this Act no notice has been given under the last foregoing sub-paragraph, any one of those persons, or the landlord, may apply to the court for a determination under this sub-paragraph; and where such an application is made—

(*a*) the continued tenancy shall be deemed to have vested, immediately before the death of the former tenant, in such one of those persons as the court may determine; and

(*b*) a notice under the last foregoing sub-paragraph given after the determination by the court under this sub-paragraph shall be of no effect.

8. Where by virtue of the foregoing provisions of this Part of this Schedule a tenancy is deemed to have vested in a person at any time, the tenancy shall be treated for all purposes as if it had then been assigned to that person by the former tenant (otherwise than by way of mortgage)—

(*a*) for full consideration in money paid to the former tenant for his own use;

(*b*) without any variation or extension of the covenant on the part of the assignee implied in such an assignment by paragraph (C) of subsection (1) of section seventy-seven of the Law of Property Act, 1925; and

(*c*) with the consent (where requisite) of the landlord,

and as if that person had then immediately assumed bona fide possession and enjoyment of the property to the entire exclusion of the former tenant or of any benefit to him by contract or otherwise.

PART III

Interpretation

9. In this Schedule the expression "the former tenant" means the person who was the tenant immediately before the date of continuation.

SECOND SCHEDULE

Section 5.

CONSEQUENTIAL RELIEF OF MESNE TENANTS

1.—(1) Where, in any proceedings by a landlord against a tenant to enforce any right of forfeiture or re-entry, the tenant proves that he has been prejudiced by the operation of the provisions of section five of this Act or of this Schedule in relation to any remedy otherwise available to him against a sub-tenant in respect of the property

2ND SCH. —*cont.*

or any part thereof, the court before which the proceedings are brought shall, where it appears to the court just so to do, give to him such relief as appears just having regard to all the circumstances and in particular to the extent to which the tenant has been prejudiced as aforesaid.

(2) Where relief is granted under this paragraph, it may be granted unconditionally or subject to such conditions as to damages, compensation or other matters as appear to the court to be just.

2—(1) Where, in any proceedings by a landlord against a tenant to enforce any right against the tenant to damages in respect of any failure to comply with a term or condition of the tenancy, the tenant proves that he has been prejudiced as aforesaid, the court shall, where it appears to the court just so to do, give to the tenant such relief as appears just having regard to all the circumstances and in particular to the extent to which the tenant has been prejudiced as aforesaid.

(2) Where relief is granted under this paragraph, it may be granted either by way of postponing the enforcement of a right to damages or by way of reduction or withholding of damages; and, without prejudice to the generality of sub-paragraph (1) of this paragraph, in determining what relief, if any, to grant the court shall have regard, in a case where the interest of the tenant has come to an end or is due to expire before the interest of the sub-tenant, to the extent to which the landlord claiming damages has or after the expiration of the interest of the tenant will have an alternative remedy against the sub-tenant.

3. The two last foregoing paragraphs apply as well to proceedings begun before the commencement of this Act as to proceedings begun thereafter.

Table of Statutes referred to in this Act

Short Title	Session and Chapter
Land Clauses Consolidation Act, 1845	8 & 9 Vict. c. 18.
Finance (1909–10) Act, 1910	10 Edw. 7 & 1 Geo. 5. c. 8.
Law of Property Act, 1925	15 & 16 Geo. 5. c. 20.
Land Registration Act, 1925	15 & 16 Geo. 5. c. 21.
Landlord and Tenant Act, 1927	17 & 18 Geo. 5. c. 36.
County Courts Act, 1934	24 & 25 Geo. 5. c. 53.
Acquisition of Land (Authorisation Procedure) Act, 1946	9 & 10 Geo. 6. c. 49.
New Towns Act, 1946	9 & 10 Geo. 6. c. 68.
Town and Country Planning Act, 1947	10 & 11 Geo. 6. c. 51.
War Damaged Sites Act, 1949	12, 13 & 14 Geo. 6. c. 84.
Shops Act, 1950	14 Geo. 6. c. 28.