

Changes to legislation: Housing Act 1985, SCHEDULE 17 is up to date with all changes known to be in force on or before 18 October 2024. There are changes that may be brought into force at a future date. Changes that have been made appear in the content and are referenced with annotations. (See end of Document for details) View outstanding changes

SCHEDULES

SCHEDULE 17 **E+W**

Section 452.

VESTING OF MORTGAGED HOUSE IN AUTHORITY ENTITLED TO EXERCISE POWER OF SALE

Modifications etc. (not altering text)

C1 Sch. 17 modified by [S.I. 1986/797](#), [regs. 20, 22](#)

Vesting of house with leave of court

- 1 (1) The authority may, if the county court gives it leave to do so, by deed vest the house in itself—
- (a) for the estate and interest in the house which is the subject of the mortgage and which the authority would be authorised to sell or convey on exercising its power of sale, and
 - (b) freed from all estates, interests and rights to which the mortgage has priority but subject to all estates, interests and rights which have priority to the mortgage.
- (2) Where application for leave under this paragraph is made to the county court, the court may adjourn the proceedings or postpone the date for the execution of the authority's deed for such period as the court thinks reasonable.
- (3) An adjournment or postponement may be made subject to such conditions with regard to payment by the mortgagor of any sum secured by the mortgage or the remedy of any default as the court thinks fit; and the court may from time to time vary or revoke any such conditions.

Effect of vesting

- 2 (1) On the vesting of the house the authority's mortgage term or charge by way of legal mortgage, and any subsequent mortgage term or charge, shall merge or be extinguished as respects the house.
- (2) Where the house is registered under the [^{F1}Land Registration Act 2002], the Chief Land Registrar shall, on application being made to him by the authority, register the authority as the proprietor of the house free from all estates, interests and rights to which its mortgage had priority, and he shall not be concerned to inquire whether any of the requirements of this Schedule were complied with.
- (3) Where the authority conveys the house, or part of it, to a person—
- (a) he shall not be concerned to inquire whether any of the provisions of this Schedule were complied with, and
 - (b) his title shall not be impeachable on the ground that the house was not properly vested in the authority or that those provisions were not complied with.

Changes to legislation: *Housing Act 1985, SCHEDULE 17 is up to date with all changes known to be in force on or before 18 October 2024. There are changes that may be brought into force at a future date. Changes that have been made appear in the content and are referenced with annotations. (See end of Document for details) View outstanding changes*

- (4) A house which is vested under this Schedule in a local housing authority shall be treated as acquired under Part II (provision of housing).

Textual Amendments

- F1** Words in Sch. 17 para. 2(2) substituted (13.10.2003) by 2002 c. 9, ss. 133, 136(2), Sch. 11 para. 18(12) (with s. 129): S.I. 2003/1725, art. 2(1)

Compensation and accounting

- 3 (1) Where the authority has vested the house in itself under paragraph 1, it shall appropriate a fund equal to the aggregate of—
- (a) the amount agreed between the authority and the mortgagor or determined by the district valuer as being the amount which under sub-paragraph (2) is to be taken as the value of the house at the time of the vesting, and
 - (b) interest on that amount, for the period beginning with the vesting and ending with the appropriation, at the rate prescribed for that period under section 32 of the ^{M1}Land Compensation Act 1961 (rate prescribed for compulsory purchase cases where entry is made before compensation is paid).
- (2) The value of the house at the time of the vesting shall be taken to be the price which, at that time, the interest vested in the authority would realise if sold on the open market by a willing vendor on the assumption that any prior incumbrances to which the vesting is not made subject would be discharged by the vendor.
- (3) The fund shall be applied in the following order—
- (a) in discharging, or paying sums into court for meeting, any prior incumbrances to which the vesting is not made subject;
 - (b) in recovering the costs, charges, and expenses properly incurred by the authority as incidental to the vesting of the house;
 - (c) in recovering the mortgage money, interest, costs and other money (if any) due under the mortgage;
 - (d) in recovering any amount which falls to be paid under the covenant required by section 35 or 155 (repayment of discount, etc. on disposal) or paragraph 6 of Schedule 8 (terms of shared ownership lease: payment for outstanding share on disposal) or any provision of the conveyance or grant to the like effect;
- and any residue then remaining in the fund shall be paid to the person entitled to the mortgaged house, or who would have been entitled to give receipts for the proceeds of sale of the house if it had been sold in the exercise of the power of sale.
- (4) Section 107(1) of the ^{M2}Law of Property Act 1925 (mortgagee's written receipt sufficient discharge for money arising under power of sale) applies to money payable under this Schedule as it applies to money arising under the power of sale conferred by that Act.

Marginal Citations

- M1** 1961 c. 33.
M2 1925 c. 20.

Changes to legislation: Housing Act 1985, SCHEDULE 17 is up to date with all changes known to be in force on or before 18 October 2024. There are changes that may be brought into force at a future date. Changes that have been made appear in the content and are referenced with annotations. (See end of Document for details) [View outstanding changes](#)

Modifications in case of conveyance or grant before 8th August 1980

- 4 In a case to which this Schedule applies by virtue of section 452(6) (disposals before 8th August 1980 of property held by local authorities for housing purposes), the preceding paragraphs have effect with the following modifications—

(a) for “house” substitute “ property ”;

(b) for paragraph (a) of paragraph 3 (1) (value of house) substitute—

“(a) the price at which the authority could have re-acquired the property by virtue of the condition mentioned in section 452(6)(b),”

and omit paragraph 3(2) (which provides for ascertaining the value of the house);

(c) omit paragraph (d) of paragraph 3(3) (which relates to repayment of discount and similar matters).

Changes to legislation:

Housing Act 1985, SCHEDULE 17 is up to date with all changes known to be in force on or before 18 October 2024. There are changes that may be brought into force at a future date. Changes that have been made appear in the content and are referenced with annotations.

[View outstanding changes](#)

Changes and effects yet to be applied to :

- specified provision(s) savings for amendments by 2018 anaw 1, s. 6, Sch. 6 by [S.I. 2019/110 reg. 5](#)

Changes and effects yet to be applied to the whole Act associated Parts and Chapters:

- Act savings and transitional provisions for amendments by S.I. 2022/1166 by [S.I. 2022/1172 Regulations](#)

Whole provisions yet to be inserted into this Act (including any effects on those provisions):

- s. 81A-81D and cross-heading inserted by [2016 c. 22 Sch. 7 para. 4](#) (This provision is amended by [2021 c. 7, ss. 79\(3\), 90\(6\)](#); [S.I. 2021/1038, reg. 3\(c\)](#))
- s. 81B(1)(b) words inserted by [2018 c. 11 s. 1\(3\)](#)
- s. 81B(2A)-(2C) inserted by [2018 c. 11 s. 1\(2\)](#)
- s. 81B(2C) words substituted by [2021 c. 17 s. 79\(3\)\(a\)\(i\)](#) (This amendment not applied to [legislation.gov.uk](#). The insertion of s. 81B by [2016 c. 22, Sch. 7 para. 4](#) is still prospective)
- s. 81B(2C) words substituted by [2021 c. 17 s. 79\(3\)\(a\)\(ii\)](#) (This amendment not applied to [legislation.gov.uk](#). The insertion of s. 81B by [2016 c. 22, Sch. 7 para. 4](#) is still prospective)
- s. 81B(2D) inserted by [2021 c. 17 s. 79\(3\)\(b\)](#) (This amendment not applied to [legislation.gov.uk](#). The insertion of s. 81B by [2016 c. 22, Sch. 7 para. 4](#) is still prospective)
- s. 82(A1)(A2) inserted by [2016 c. 22 s. 119\(2\)\(a\)](#)
- s. 82A(4A)(4B) inserted by [2016 c. 22 Sch. 7 para. 7\(2\)](#)
- s. 86(1A)(1B) inserted by [2016 c. 22 Sch. 7 para. 10\(3\)](#)
- s. 86(1C) inserted by [2016 c. 22 Sch. 8 para. 2](#)
- s. 86A-86F and cross-headings inserted by [2016 c. 22 Sch. 7 para. 11](#)
- s. 86G s. 86A renumbered as s. 86G by [2016 c. 22 Sch. 8 para. 3\(1\)\(a\)](#)
- s. 86G(8) inserted by [2016 c. 22 Sch. 8 para. 3\(2\)](#)
- s. 88(1)(ba) inserted by [2016 c. 22 Sch. 8 para. 4](#)
- s. 89(2A)-(2D) inserted by [2016 c. 22 Sch. 8 para. 5\(3\)](#)
- s. 97(1A) inserted by [2016 c. 22 Sch. 7 para. 12\(3\)](#)
- s. 99A(1A) inserted by [2016 c. 22 Sch. 7 para. 13\(3\)](#)
- s. 115(3)-(7) inserted by [2024 c. 22 Sch. 9 para. 4\(a\)\(ii\)](#)
- s. 115B115C inserted by [2016 c. 22 Sch. 7 para. 15](#)
- s. 115B115C inserted by [2016 c. 22 Sch. 7 para. 15](#)
- s. 305(1A) inserted by [2023 asc 3 Sch. 13 para. 68\(b\)](#)
- s. 306(1A) inserted by [2023 asc 3 Sch. 13 para. 69\(b\)](#)
- s. 353A inserted by [1996 c. 52 s. 73\(1\)](#) (This amendment not applied to [legislation.gov.uk](#). S. 73 repealed (6.4.2006 for E., 16.6.2006 for W.) by [2004 c. 34, Sch. 16](#); [S.I. 2006/1060, art. 2\(1\)\(e\), Sch.](#); [S.I. 2006/1535, art. 2\(c\), Sch.](#))
- s. 582(6)(aa)-(ac) substituted for s. 582(6)(a) by [2023 c. 55 Sch. 18 para. 4\(2\)\(b\)](#)
- Sch. 1 para. 1ZA and cross-heading inserted by [2016 c. 22 Sch. 7 para. 17\(2\)](#)
- Sch. 5A para. 3(3)(aa) inserted by [2023 c. 55 Sch. 18 para. 4\(3\)\(b\)\(ii\)](#)
- Sch. 5A para. 3(6A) inserted by [2023 c. 55 Sch. 18 para. 4\(3\)\(d\)](#)