

Status: Point in time view as at 15/09/2003.

Changes to legislation: Leasehold Reform, Housing and Urban Development Act 1993, SCHEDULE 11 is up to date with all changes known to be in force on or before 09 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)

SCHEDULES

SCHEDULE 11 **E+W**

Section 40.

PROCEDURE WHERE COMPETENT LANDLORD IS NOT TENANT’S IMMEDIATE LANDLORD

Commencement Information

II Sch. 11 wholly in force at 1.11.1993 see s. 188(2) and S.I. 1993/2134, art. 5

PART I **E+W**

PROCEDURE IN RELATION TO TENANT’S NOTICE

Tenant’s notice may be given to any of the other landlords

- 1 The tenant’s notice under section 42 shall be regarded as given to the competent landlord for the purposes of subsection (2)(a) of that section if it is given to any of the other landlords instead; and references in this Chapter to the relevant date shall be construed accordingly.

Tenant to give copies of notice

- 2 (1) Where the tenant’s notice is given to the competent landlord, the tenant shall give a copy of the notice to every person known or believed by him to be one of the other landlords.
- (2) Where the tenant’s notice is, in accordance with paragraph 1, given to one of the other landlords, the tenant shall give a copy of the notice to every person (apart from the recipient of the notice) known or believed by the tenant to be either the competent landlord or one of the other landlords.
- (3) The tenant’s notice shall state whether copies are being given in accordance with this paragraph to anyone other than the recipient and, if so, to whom.

Recipient of notice or copy to give further copies

- 3 (1) Subject to sub-paragraph (2), a recipient of the tenant’s notice or of a copy of it (including a person receiving a copy under this sub-paragraph)—
- (a) shall forthwith give a copy to any person who—
- (i) is known or believed by him to be the competent landlord or one of the other landlords, and
- (ii) is not stated in the recipient’s copy of the notice, or known by him, to have received a copy; and

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- (b) if he knows who is, or he believes himself to be, the competent landlord, shall—
 - (i) give a notice to the tenant stating who is the person thought by him to be the competent landlord, and
 - (ii) give a copy of it to that person (if not himself) and to every person known or believed by him to be one of the other landlords.
- (2) Sub-paragraph (1) does not apply where the recipient is neither the competent landlord nor one of the other landlords.
- (3) Where a person gives any copies of the tenant’s notice in accordance with sub-paragraph (1)(a), he shall—
 - (a) supplement the statement under paragraph 2(3) by adding any further persons to whom he is giving copies or who are known by him to have received one; and
 - (b) notify the tenant of the persons added by him to that statement.

Consequences of failure to comply with paragraph 2 or 3

- 4 (1) Where—
 - (a) the competent landlord or any of the other landlords does not receive a copy of the tenant’s notice before the end of the period specified in it in pursuance of section 42(3)(f), but
 - (b) he was given a notice under section 41 by the tenant and, in response to the notice under that section, notified the tenant of his interest in the tenant’s flat, the tenant’s notice shall cease to have effect at the end of that period.
- (2) Where—
 - (a) sub-paragraph (1) does not apply, but
 - (b) any person fails without reasonable cause to comply with paragraph 2 or 3 above, or is guilty of any unreasonable delay in complying with either of those paragraphs,
 he shall be liable for any loss thereby occasioned to the tenant or to the competent landlord or any of the other landlords.

PART II E+W

CONDUCT OF PROCEEDINGS BY COMPETENT
 LANDLORD ON BEHALF OF OTHER LANDLORDS

Counter-notice to specify other landlords

- 5 Any counter-notice given to the tenant by the competent landlord must specify the other landlords on whose behalf he is acting.

Acts of competent landlord binding on other landlords

- 6 (1) Without prejudice to the generality of section 40(2)—
 - (a) any notice given under this Chapter by the competent landlord to the tenant,

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- (b) any agreement for the purposes of this Chapter between that landlord and the tenant, and
- (c) any determination of the court or a leasehold valuation tribunal under this Chapter in proceedings between that landlord and the tenant,

shall be binding on the other landlords and on their interests in the property demised by the tenant's lease or any other property; but in the event of dispute the competent landlord or any of the other landlords may apply to the court for directions as to the manner in which the competent landlord should act in the dispute.

- (2) Subject to paragraph 7(2), the authority given to the competent landlord by section 40(2) shall extend to receiving on behalf of any other landlord any amount payable to that person by virtue of Schedule 13.
- (3) If any of the other landlords cannot be found, or his identity cannot be ascertained, the competent landlord shall apply to the court for directions and the court may make such order as it thinks proper with a view to giving effect to the rights of the tenant and protecting the interests of other persons; but, subject to any such directions, the competent landlord shall proceed as in other cases.
- (4) The competent landlord, if he acts in good faith and with reasonable care and diligence, shall not be liable to any of the other landlords for any loss or damage caused by any act or omission in the exercise or intended exercise of the authority given to him by section 40(2).

Other landlords acting independently

- 7 (1) Notwithstanding anything in section 40(2), any of the other landlords shall, at any time after the giving by the competent landlord of a counter-notice under section 45 and on giving notice to both the competent landlord and the tenant of his intention to be so represented, be entitled to be separately represented—
 - (a) in any legal proceedings in which his title to any property comes in question, or
 - (b) in any legal proceedings relating to the determination of any amount payable to him by virtue of Schedule 13.

- (2) Any of the other landlords may also, on giving notice to the competent landlord and the tenant, require that any amount payable to him by virtue of Schedule 13 shall be paid by the tenant to him, or to a person authorised by him to receive it, instead of to the competent landlord; but if, after being given proper notice of the time and method of completion with the tenant, either—
 - (a) he fails to notify the competent landlord of the arrangements made with the tenant to receive payment, or
 - (b) having notified the competent landlord of those arrangements, the arrangements are not duly implemented,

the competent landlord shall be authorised to receive the payment for him, and the competent landlord's written receipt for the amount payable shall be a complete discharge to the tenant.

Obligations of other landlords to competent landlord

- 8 (1) It shall be the duty of each of the other landlords (subject to paragraph 7) to give the competent landlord all such information and assistance as he may reasonably require; and, if any of the other landlords fails to comply with this sub-paragraph,

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that landlord shall indemnify the competent landlord against any liability incurred by him in consequence of the failure.

- (2) Each of the other landlords shall make such contribution as shall be just to costs and expenses which are properly incurred by the competent landlord in pursuance of section 40(2) but are not recoverable or not recovered from the tenant.

Applications made by other landlords under section 47(1)

- 9 (1) The authority given to the competent landlord by section 40(2) shall not extend to the bringing of proceedings under section 47(1) on behalf of any of the other landlords, or preclude any of those landlords from bringing proceedings under that provision on his own behalf as if he were the competent landlord.
- (2) In section 45(2)(c) any reference to the competent landlord shall include a reference—
- (a) to any of the other landlords, or
 - (b) to any two or more of the following, namely the competent landlord and the other landlords, acting together;

and in section 47(1) and (2) references to the landlord shall be construed accordingly; but if any of the other landlords intends to make such an application as is mentioned in section 45(2)(c), whether alone or together with any other person or persons, his name shall be stated in the counter-notice.

Deemed surrender and re-grant of leases of other landlords

- 10 (1) Where a lease is executed under section 56 or 93(4) or in pursuance of any order made under this Chapter, then (subject to sub-paragraph (3)) that instrument shall have effect for the creation of the tenant’s new lease of his flat, and for the operation of the rights and obligations conferred and imposed by it, as if there had been a surrender and re-grant of any subsisting lease intermediate between the interest of the competent landlord and the existing lease; and the covenants and other provisions of that instrument shall be framed and take effect accordingly.
- (2) Section 57(2) shall apply to the new lease on the basis that account is to be taken of obligations imposed on any of the other landlords by virtue of that or any superior lease; and section 59(3) shall apply on the basis that the reference there to the tenant’s landlord includes the immediate landlord from whom the new lease will be held and all superior landlords, including any superior to the competent landlord.
- (3) Where a lease of the tenant’s flat superior to the existing lease is vested in the tenant or a trustee for him, the new lease shall include an actual surrender of that superior lease without a re-grant, and it shall accordingly be disregarded for the purposes of the preceding provisions of this paragraph.

Discharge of existing mortgages

- 11 Where by reason of section 58(2) it is necessary to make any payment to discharge the tenant’s flat from a mortgage affecting the interest of any landlord, then if the competent landlord is not the landlord liable or primarily liable in respect of the mortgage, he shall not be required to make that payment otherwise than out of money made available for the purpose by the landlord so liable, and it shall be the duty of that landlord to provide for the mortgage being discharged.

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