

Changes to legislation: Leasehold Reform, Housing and Urban Development Act 1993, SCHEDULE 9 is up to date with all changes known to be in force on or before 07 July 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 9 **E+W**

Section 36.

GRANT OF LEASES BACK TO FORMER FREEHOLDER

Extent Information

E1 Sch. 9 wholly in force at 1.11.1993 see s. 188(2) and S.I. 1993/2134, art. 5

PART I **E+W**

GENERAL

1 (1) In this Schedule—

[^{F1}“the appropriate time”, in relation to a flat or other unit contained in the specified premises, means the time when the freehold of the flat or other unit is acquired by the nominee purchaser;]

“the demised premises”, in relation to a lease granted or to be granted in pursuance of Part II or III of this Schedule, means—

- (a) the flat or other unit demised or to be demised under the lease, or
- (b) in the case of such a lease under which two or more units are demised, both or all of those units or (if the context so permits) any of them;

[^{F1}“the freeholder”, in relation to a flat or other unit contained in the specified premises, means the person who owns the freehold of the flat or other unit immediately before the appropriate time;]

“housing association” has the meaning given by section 1(1) of the ^{M1}Housing Associations Act 1985;

“intermediate landlord”, in relation to a flat or other unit let to a tenant, means a person who holds a leasehold interest in the flat or other unit which is superior to that held by the tenant’s immediate landlord;

“other property” means property other than the demised premises.

(2) In this Schedule any reference to a flat or other unit, in the context of the grant of a lease of it, includes any yard, garden, garage, outhouses and appurtenances belonging to or usually enjoyed with it and let with it immediately before the appropriate time.

Textual Amendments

F1 Definitions in Sch. 9 para. 1 substituted (1.10.1996) by 1996 c. 52, s. 107, Sch. 10 para. 20(2); S.I. 1996/2212, art. 2(2) (with savings in Sch.)

Marginal Citations

M1 1985 c. 69.

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PART II E+W

MANDATORY LEASEBACK

Flats etc. let under secure tenancies ^[F2] or secure contracts[]]

Textual Amendments

F2 Words in Sch. 9 para. 2 heading inserted (1.12.2022) by [The Renting Homes \(Wales\) Act 2016 \(Consequential Amendments\) Regulations 2022 \(S.I. 2022/1166\)](#), regs. 1(1), **22(5)(a)**

- 2 (1) This paragraph applies where immediately before the appropriate time any flat ^[F3] falling within sub-paragraph (1A) is let under a secure tenancy ^[F4] or an introductory tenancy[]] ^[F5] or a secure contract (or an introductory standard contract) and either—
- (a) the freeholder is the tenant's immediate landlord, or
 - (b) the freeholder is a public sector landlord and every intermediate landlord of the flat (as well as the immediate landlord under the secure tenancy ^[F4] or the introductory tenancy[]] ^[F6] or the secure contract (or the introductory standard contract)) is also a public sector landlord.
- ^{F7}[(1A) A flat falls within this sub-paragraph if—
- (a) the freehold of the whole of it is owned by the same person, and
 - (b) it is contained in the specified premises.]
- (2) Sub-paragraph (1)(b) has effect whether any such intermediate landlord, or the immediate landlord under the secure tenancy ^[F8] or the introductory tenancy[]] ^[F9] or the secure contract (or the introductory standard contract), is or is not a qualifying tenant of the flat.
- (3) Where this paragraph applies, the nominee purchaser shall grant to the freeholder a lease of the flat in accordance with section 36 and paragraph 4 below.
- (4) In this paragraph any reference to a flat includes a reference to a unit (other than a flat) which is used as a dwelling.

Textual Amendments

- F3** Words in Sch. 9 para. 2(1) substituted (1.10.1996) by [1996 c. 52, s. 107, Sch. 10 para. 20\(3\)](#); [S.I. 1996/2212, art. 2\(2\)](#) (with saving in Sch.)
- F4** Words in Sch. 9 para. 2(1) inserted (12.2.1997) by [S.I. 1997/74, art. 2, Sch. para. 9\(d\)\(i\)](#)
- F5** Words in Sch. 9 para. 2(1) inserted (1.12.2022) by [The Renting Homes \(Wales\) Act 2016 \(Consequential Amendments\) Regulations 2022 \(S.I. 2022/1166\)](#), regs. 1(1), **22(5)(b)**
- F6** Words in Sch. 9 para. 2(1)(b) inserted (1.12.2022) by [The Renting Homes \(Wales\) Act 2016 \(Consequential Amendments\) Regulations 2022 \(S.I. 2022/1166\)](#), regs. 1(1), **22(5)(c)**
- F7** [Sch. 9 para. 2\(1A\)](#) inserted (1.10.1996) by [1996 c. 52, s. 107, Sch. 10 para. 20\(3\)](#); [S.I. 1996/2212, art. 2\(2\)](#) (with savings in Sch.)
- F8** Words in Sch. 9 para. 2(2) inserted (12.2.1997) by [S.I. 1997/74, art. 2, Sch. para. 9\(d\)\(ii\)](#)
- F9** Words in Sch. 9 para. 2(2) inserted (1.12.2022) by [The Renting Homes \(Wales\) Act 2016 \(Consequential Amendments\) Regulations 2022 \(S.I. 2022/1166\)](#), regs. 1(1), **22(5)(d)**

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*Flats etc. let by housing associations under tenancies
other than secure tenancies ^{F10}or secure contracts]*

Textual Amendments

F10 Words in Sch. 9 para. 3 heading inserted (1.12.2022) by The Renting Homes (Wales) Act 2016 (Consequential Amendments) Regulations 2022 (S.I. 2022/1166), regs. 1(1), **22(5)(e)**

- 3 (1) This paragraph applies where immediately before the appropriate time any flat ^{F11}falling within sub-paragraph (1A)] is let by a housing association under a tenancy other than a secure tenancy ^{F12}or secure contract] and—
- (a) the housing association is the freeholder, and
 - (b) the tenant is not a qualifying tenant of the flat.
- ^{F13}[(1A) A flat falls within this sub-paragraph if—
- (a) the freehold of the whole of it is owned by the same person, and
 - (b) it is contained in the specified premises.]
- (2) Where this paragraph applies, the nominee purchaser shall grant to the freeholder (that is to say, the housing association) a lease of the flat in accordance with section 36 and paragraph 4 below.
- (3) In this paragraph any reference to a flat includes a reference to a unit (other than a flat) which is used as a dwelling.

Textual Amendments

- F11** Words in Sch. 9 para. 3(1) substituted (1.10.1996) by 1996 c. 52, s. 107, **Sch. 10 para. 20(4)**; S.I. 1996/2212, **art. 2(2)** (with savings in Sch.)
- F12** Words in Sch. 9 para. 3(1) inserted (1.12.2022) by The Renting Homes (Wales) Act 2016 (Consequential Amendments) Regulations 2022 (S.I. 2022/1166), regs. 1(1), **22(5)(f)**
- F13** Sch. 9 para. 3(1A) inserted (1.10.1996) by 1996 c. 52, s. 107, **Sch. 10 para. 20(4)**; S.I. 1996/2212, **art. 2(2)** (with savings in Sch.)

Provisions as to terms of lease

- 4 (1) Any lease granted to the freeholder in pursuance of paragraph 2 or 3, and any agreement collateral to it, shall conform with the provisions of Part IV of this Schedule except to the extent that any departure from those provisions is agreed to by the nominee purchaser and the freeholder with the approval of ^{F14}the appropriate tribunal].
- (2) ^{F15}The appropriate tribunal] shall not approve any such departure from those provisions unless it appears to the tribunal that it is reasonable in the circumstances.
- (3) In determining whether any such departure is reasonable in the circumstances, the tribunal shall have particular regard to the interests of the tenant under the secure tenancy ^{F16}or introductory tenancy]]^{F17}or the secure contract (or introductory standard contract)] referred to in paragraph 2(1) or (as the case may be) under the housing association tenancy referred to in paragraph 3(1).

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- (4) Subject to the preceding provisions of this paragraph, any such lease or agreement as is mentioned in sub-paragraph (1) may include such terms as are reasonable in the circumstances.

Textual Amendments

- F14** Words in Sch. 9 para. 4(1) substituted (1.7.2013) by [The Transfer of Tribunal Functions Order 2013 \(S.I. 2013/1036\)](#), art. 1, **Sch. 1 para. 126(a)** (with Sch. 3)
- F15** Words in Sch. 9 para. 4(2) substituted (1.7.2013) by [The Transfer of Tribunal Functions Order 2013 \(S.I. 2013/1036\)](#), art. 1, **Sch. 1 para. 126(b)** (with Sch. 3)
- F16** Words in Sch. 9 para. 4(3) inserted (12.2.1997) by [S.I. 1997/74](#), art. 2, **Sch. para. 9(d)(iii)**
- F17** Words in Sch. 9 para. 4(3) inserted (1.12.2022) by [The Renting Homes \(Wales\) Act 2016 \(Consequential Amendments\) Regulations 2022 \(S.I. 2022/1166\)](#), regs. 1(1), **22(5)(g)**

- [^{F18}4A. In this Part of this Schedule, the following terms have the same meaning as in the Renting Homes (Wales) Act 2016 (anaw 1)—
- (a) “introductory standard contract” (see section 16 of that Act);
- (b) “secure contract” (see section 8 of that Act).]

Textual Amendments

- F18** Sch. 9 para. 4A inserted (1.12.2022) by [The Renting Homes \(Wales\) Act 2016 \(Consequential Amendments\) Regulations 2022 \(S.I. 2022/1166\)](#), regs. 1(1), **22(5)(h)**

PART III E+W

RIGHT OF FREEHOLDER TO REQUIRE LEASEBACK OF CERTAIN UNITS

Flats without qualifying tenants and other units

- 5 (1) Subject to sub-paragraph (3), this paragraph applies to any unit [^{F19}falling within sub-paragraph (1A)] which is not immediately before the appropriate time a flat let to a person who is a qualifying tenant of it.
- [^{F20}(1A) A unit falls within this sub-paragraph if—
- (a) the freehold of the whole of it is owned by the same person, and
- (b) it is contained in the specified premises.]
- (2) Where this paragraph applies, the nominee purchaser shall, if the freeholder by notice requires him to do so, grant to the freeholder a lease of the unit in accordance with section 36 and paragraph 7 below.
- (3) This paragraph does not apply to a flat or other unit to which paragraph 2 or 3 applies.

Textual Amendments

- F19** Words in Sch. 9 para. 5(1) substituted (1.10.1996) by [1996 c. 52](#), s. 107, **Sch. 10 para. 20(5)**; [S.I. 1996/2212](#), **art. 2(2)** (with savings in Sch.)

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F20 Sch. 9 para. 5(1A) inserted (1.10.1996) by 1996 c. 52, s. 107, Sch. 10 para. 20(5); S.I. 1996/2212, art. 2(2) (with savings in Sch.)

Flat etc. occupied by resident landlord

- 6 [F21(1) Sub-paragraph (2) applies where, immediately before the freehold of a flat or other unit contained in the specified premises is acquired by the nominee purchaser—
- (a) those premises are premises with a resident landlord by virtue of the occupation of the flat or other unit by the freeholder of it, and
 - (b) the freeholder of the flat or other unit is a qualifying tenant of it.
- (2) If the freeholder of the flat or other unit (“the relevant unit”) by notice requires the nominee purchaser to do so, the nominee purchaser shall grant to the freeholder a lease of the relevant unit in accordance with section 36 and paragraph 7 below; and, on the grant of such a lease to the freeholder, he shall be deemed to have surrendered any lease of the relevant unit held by him immediately before the appropriate time.]
- (3) Sections 5, 7 and 8 shall apply for the purpose of determining whether, for the purposes of sub-paragraph [F22(1)(b)]above, the freeholder is a qualifying tenant of a unit other than a flat as they apply for the purpose of determining whether a person is a qualifying tenant of a flat.

Textual Amendments

- F21** Sch. 9 para. 6(1)(2) substituted (1.10.1996) by 1996 c. 52, s. 107, Sch. 10 para. 20(6); S.I. 1996/2212, art. 2(2) (with savings in Sch.)
- F22** Words in Sch. 9 para. 6(3) substituted (1.10.1996) by 1996 c. 52, s. 107, Sch. 10 para. 20(7); S.I. 1996/2212, art. 2(2) (with savings in Sch.)

Provisions as to terms of lease

- 7 (1) Any lease granted to the freeholder in pursuance of paragraph 5 or 6, and any agreement collateral to it, shall conform with the provisions of Part IV of this Schedule except to the extent that any departure from those provisions—
- (a) is agreed to by the nominee purchaser and the freeholder; or
 - (b) is directed by [F23the appropriate tribunal] on an application made by either of those persons.
- (2) [F24The appropriate tribunal] shall not direct any such departure from those provisions unless it appears to the tribunal that it is reasonable in the circumstances.
- (3) In determining whether any such departure is reasonable in the circumstances, the tribunal shall have particular regard to the interests of any person who will be the tenant of the flat or other unit in question under a lease inferior to the lease to be granted to the freeholder.
- (4) Subject to the preceding provisions of this paragraph, any such lease or agreement as is mentioned in sub-paragraph (1) may include such terms as are reasonable in the circumstances.

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Textual Amendments

- F23** Words in Sch. 9 para. 7(1)(b) substituted (1.7.2013) by [The Transfer of Tribunal Functions Order 2013 \(S.I. 2013/1036\)](#), art. 1, **Sch. 1 para. 126(a)** (with Sch. 3)
- F24** Words in Sch. 9 para. 7(2) substituted (1.7.2013) by [The Transfer of Tribunal Functions Order 2013 \(S.I. 2013/1036\)](#), art. 1, **Sch. 1 para. 126(b)** (with Sch. 3)

PART IV E+W

TERMS OF LEASE GRANTED TO FREEHOLDER

Duration of lease and rent

- 8 The lease shall be a lease granted for a term of 999 years at a peppercorn rent.

General rights to be granted

- 9 The lease shall not exclude or restrict the general words implied under section 62 of the ^{M2}Law of Property Act 1925, unless the exclusion or restriction is made for the purpose of preserving or recognising an existing right or interest of any person.

Marginal Citations

- M2** 1925 c. 20.

^{F25}*[Covenants for title*

Textual Amendments

- F25** Sch. 9 para. 9A and cross heading inserted (1.7.1995) by [1994 c. 36, s. 20, 21\(1\)](#), **Sch. 1 para. 12(4)**; [S.I. 1995/1317, art.2](#)

- ^{F26}9A The lessor shall not be bound to enter into any covenant for title beyond—
- (a) those implied from the grant, and
 - (b) those implied under Part I of the Law of Property (Miscellaneous Provisions) Act 1994 in a case where a disposition is expressed to be made with limited title guarantee.]

Textual Amendments

- F26** Sch. 9 para. 9A and cross heading inserted (1.7.1995) by [1994 c. 36, s. 20, 21\(1\)](#), **Sch. 1 para. 12(4)**; [S.I. 1995/1317, art. 2](#)

Rights of support, passage of water etc.

- 10 (1) This paragraph applies to rights of any of the following descriptions, namely—
- (a) rights of support for a building or part of a building;

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- (b) rights to the access of light and air to a building or part of a building;
- (c) rights to the passage of water or of gas or other piped fuel, or to the drainage or disposal of water, sewage, smoke or fumes, or to the use or maintenance of pipes or other installations for such passage, drainage or disposal; and
- (d) rights to the use or maintenance of cables or other installations for the supply of electricity, for the telephone or for the receipt directly or by landline of visual or other wireless transmissions;

and the provisions required to be included in the lease by virtue of sub-paragraph (2) are accordingly provisions relating to any such rights.

- (2) The lease shall include provisions having the effect of—
 - (a) granting with the demised premises (so far as the lessor is capable of granting them)—
 - (i) all such easements and rights over other property as are necessary to secure as nearly as may be for the benefit of the demised premises the same rights as exist for the benefit of those premises immediately before the appropriate time, and
 - (ii) such further easements and rights (if any) as are necessary for the reasonable enjoyment of the demised premises; and
 - (b) making the demised premises subject to the following easements and rights (so far as they are capable of existing in law), namely—
 - (i) all easements and rights for the benefit of other property to which the demised premises are subject immediately before the appropriate time, and
 - (ii) such further easements and rights (if any) as are necessary for the reasonable enjoyment of other property, being property in which the lessor acquires an interest at the appropriate time.

Rights of way

- 11 The lease shall include—
- (a) such provisions (if any) as the lessee may require for the purpose of securing to him, and persons deriving title under him, rights of way over other property (so far as the lessor is capable of granting them), being rights of way that are necessary for the reasonable enjoyment of the demised premises; and
 - (b) such provisions (if any) as the lessor may require for the purpose of making the demised premises subject to rights of way necessary for the reasonable enjoyment of other property, being property in which the lessor acquires an interest at the appropriate time.

Common use of premises and facilities

- 12 The lease shall include, so far as the lessor is capable of granting them, the like rights to use in common with others any premises, facilities or services as are enjoyed immediately before the appropriate time by any tenant of the demised premises.

Covenants affecting demised premises

- 13 The lease shall include such provisions (if any) as the lessor may require to secure that the lessee is bound by, or to indemnify the lessor against breaches of, restrictive

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covenants (that is to say, covenants or agreements restrictive of the use of any land or premises) affecting the demised premises immediately before the appropriate time and enforceable for the benefit of other property.

Covenants by lessor

- 14 (1) The lease shall include covenants by the lessor—
- (a) to keep in repair the structure and exterior of the demised premises and of the specified premises (including drains, gutters and external pipes) and to make good any defect affecting that structure;
 - (b) to keep in repair any other property over or in respect of which the lessee has rights by virtue of this Schedule;
 - (c) to ensure, so far as practicable, that the services which are to be provided by the lessor and to which the lessee is entitled (whether alone or in common with others) are maintained at a reasonable level, and to keep in repair any installation connected with the provision of any of those services.
- (2) The lease shall include a covenant requiring the lessor—
- (a) to insure the specified premises for their full reinstatement value against destruction or damage by fire, tempest, flood or any other cause against the risk of which it is the normal practice to insure;
 - (b) to rebuild or reinstate the demised premises or the specified premises in the case of any such destruction or damage.

Covenants by lessee

- 15 The lease shall include a covenant by the lessee to ensure that the interior of the demised premises is kept in good repair (including decorative repair).

Contributions by lessee

- 16 (1) The lease may require the lessee to bear a reasonable part of the costs incurred by the lessor in discharging or insuring against the obligations imposed by the covenants required by paragraph 14(1) or in discharging the obligation imposed by the covenant required by paragraph 14(2)(a).
- (2) Where a covenant required by paragraph 14(1) or (2)(a) has been modified to any extent in accordance with paragraph 4 or 7, the reference in sub-paragraph (1) above to the obligations or (as the case may be) the obligation imposed by that covenant shall be read as a reference to the obligations or obligation imposed by that covenant as so modified.

Assignment and sub-letting of premises

- 17 (1) Except where the demised premises consist of or include any unit let or intended for letting on a business lease, the lease shall not include any provision prohibiting or restricting the assignment of the lease or the sub-letting of the whole or part of the demised premises.
- (2) Where the demised premises consist of or include any such unit as is mentioned in sub-paragraph (1), the lease shall contain a prohibition against—
- (a) assigning or sub-letting the whole or part of any such unit, or
 - (b) altering the user of any such unit,

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without the prior written consent of the lessor (such consent not to be unreasonably withheld).

Restriction on terminating lease

- 18 The lease shall not include any provision for the lease to be terminated otherwise than by forfeiture on breach of any term of the lease by the lessee.

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Changes and effects yet to be applied to :

- Sch. 9 words substituted by [2002 c. 15 Sch. 8 para. 43](#)

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

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

- s. 12A and cross-heading inserted by [2002 c. 15 s. 123\(1\)](#)
- s. 12A(3)(a)(b) words substituted by [S.I. 2009/1941 Sch. 1 para. 140\(5\)](#)
- s. 12A(4)(a) words substituted by [S.I. 2009/1941 Sch. 1 para. 140\(5\)](#)
- s. 12A(4)(c) words substituted by [S.I. 2009/1941 Sch. 1 para. 140\(5\)](#)
- s. 13(2ZA) inserted by [2002 c. 15 s. 121\(3\)](#)
- s. 13(2ZB) inserted by [2002 c. 15 s. 123\(2\)](#)
- s. 13(5A) inserted by [2002 c. 15 Sch. 8 para. 6\(3\)](#)
- s. 29(4A) inserted by [2002 c. 15 Sch. 8 para. 18\(2\)](#)
- s. 29(4A) words added by [S.I. 2003/2096 Sch. para. 20\(b\)](#)
- s. 29(4A)(a) words omitted by [S.I. 2003/2096 Sch. para. 20\(a\)](#)
- s. 29(4A)(d) words substituted by [S.I. 2009/1941 Sch. 1 para. 140\(6\)](#)
- s. 70(15) inserted by [2023 asc 3 Sch. 13 para. 166\(b\)](#)
- s. 78(5A)-(5C) inserted by [2008 c. 17 Sch. 12 para. 15\(3\)](#)
- s. 78(7) inserted by [2008 c. 17 Sch. 12 para. 15\(4\)](#)
- s. 79(2)(2A) substituted for s. 79(2) by [2002 c. 15 Sch. 10 para. 16\(3\)](#)
- s. 156(4) repealed by [2014 asp 14 sch. 2 para. 7](#)
- Sch. 20 para. 5(1A) inserted by [2008 c. 29 Sch. 9 para. 5\(2\)](#)