

## SCHEDULES

### SCHEDULE 7

#### GROUNDWATER DAMAGE PROTECTION

##### *Right to compensation instead of remedial work*

- 15 (1) Where a right to require the carrying out of remedial work to a building arises under paragraph 12 above as the result of a survey, a claim may be made for the Development Corporation to pay compensation instead of carrying out remedial work if—
- (a) the building is a building to which this paragraph applies,
  - (b) the survey report states that the building has already suffered groundwater damage, and
  - (c) no previous right to claim compensation has arisen under this paragraph in relation to the building.
- (2) This paragraph applies to a building if—
- (a) the whole, or substantially the whole, of it is occupied as one or more private dwellings, or
  - (b) it is unoccupied but either—
    - (i) when it was last occupied the whole, or substantially the whole, of it was so occupied, or
    - (ii) it is intended that the whole, or substantially the whole, of it should be so occupied.
- (3) The Development Corporation shall not be under any duty to pay compensation under this paragraph if they have reasonable grounds for believing that failure to carry out remedial work to a building will probably have an adverse effect on an adjoining building.
- (4) A claim under sub-paragraph (1) above may only be made by the person who has a relevant interest in the building or, if more than one person has such an interest, by all the persons who have such an interest acting together.
- (5) For the purposes of this paragraph a person has a relevant interest in a building if—
- (a) he is entitled to dispose of the fee simple of the building or any part of it (whether in possession or in reversion),
  - (b) he holds, or is entitled to the rents and profits of, the building or any part of it under a lease or agreement granted or extended for a term of years certain of which not less than three years remains unexpired, or
  - (c) he is a person to whom sub-paragraph (6) below applies on the relevant day, unless he is a mortgagee not in possession.
- (6) This sub-paragraph applies to a person who—

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*Status: This is the original version (as it was originally enacted).*

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- (a) is entitled under Part I of the Leasehold Reform Act 1967 to acquire the freehold or an extended lease of the building or any part of it and has given notice under that Act of his desire to have the freehold or an extended lease,
  - (b) is a qualifying tenant for the purposes of Chapter I of Part I of the Leasehold Reform, Housing and Urban Development Act 1993 of a flat contained in the building and is by virtue of his tenancy—
    - (i) a participating tenant in relation to a claim to exercise the right to collective enfranchisement under that Chapter, or
    - (ii) one of the participating tenants on whose behalf an acquisition by a nominee purchaser has been made in pursuance of such a claim, or
  - (c) is entitled under Chapter II of Part I of the Leasehold Reform, Housing and Urban Development Act 1993 to acquire a new lease of a flat contained in the building and has given notice under that Chapter of his claim to exercise the right to acquire a new lease.
- (7) A claim under sub-paragraph (1) above—
- (a) shall be made in writing to the Development Corporation not later than the end of the period of six months beginning with the relevant day, and
  - (b) shall contain full details of the interest of the claimant (or of each of the claimants) together with details, so far as known, of the interest which any other person has in the building or any part of the building;
- and a claimant shall, on being required to do so by the Development Corporation, produce all necessary evidence of his interest.
- (8) In this paragraph and paragraphs 16 and 17 below “the relevant day”, in relation to a claim for compensation under this paragraph, means—
- (a) the day on which a copy of the survey report on which the claim is based is sent to the owners and occupiers of the building or any part of it, or
  - (b) if copies are sent to those persons on different days, the last day on which one is sent to any of them.