

SCHEDULE 6

CONVEYANCE OF FREEHOLD AND GRANT OF LEASE IN PURSUANCE OF RIGHT TO ACQUIRE

PART IV CHARGES

Grant of lease

20. A charge (however created or arising) on the interest of the landlord which is not a tenant's incumbrance does not affect a lease granted in pursuance of the right to acquire provided that—

- (a) the landlord has complied with the requirements imposed on the landlord by paragraph 22, or
- (b) the holder of a charge has agreed in writing with the landlord that paragraph 22 shall not apply,

but the release does not affect the personal liability of the landlord or any other person in respect of any obligation the charge was created to secure.

Conveyance of freehold

21.—(1) This paragraph applies to a charge (however created or arising) on the freehold where the freehold is conveyed in pursuance of the right to acquire.

(2) If the charge is not a tenant's incumbrance and is not a rentcharge the conveyance is effective to release the freehold from the charge provided that—

- (a) the landlord has complied with the requirements imposed on the landlord by paragraph 22, or
- (b) the holder of the charge has agreed in writing with the landlord that paragraph 22 shall not apply;

but the release does not affect the personal liability of the landlord or any other person in respect of any obligation which the charge was created to secure.

(3) If the charge is a rentcharge the conveyance shall be made subject to the charge; but if the rentcharge also affects other land—

- (a) the conveyance shall contain a covenant by the landlord to indemnify the tenant and his successors in title in respect of any liability arising under the rentcharge, and
 - (b) if the rentcharge is of a kind which may be redeemed under the Rentcharges Act 1977 the landlord shall immediately after the conveyance take such steps as are necessary to redeem the rentcharge so far as it affects land owned by him.
- (4) In this paragraph "rentcharge" has the same meaning as in the Rentcharges Act 1977; and
- (a) for the purposes of sub-paragraph (3) land is owned by a person if he is the owner of it within the meaning of section 13(1) of that Act, and
 - (b) for the purposes of that sub-paragraph and that Act land which has been conveyed by the landlord in pursuance of the right to acquire but subject to the rentcharge shall be treated as if it had not been so conveyed but had continued to be owned by him.

Status: This is the original version (as it was originally made). This item of legislation is currently only available in its original format.

Notice to lenders

22.—(1) This paragraph and paragraph 23 shall apply to a charge (however created or arising) on the interest of the landlord in the dwelling house, unless and until the landlord and the holder of the charge at any time agree otherwise in writing.

(2) Within 7 days of the landlord receiving the tenant's written notice of his intention to pursue his claim to the right to acquire under section 125D the landlord shall serve on the holder of any charge secured against the dwelling-house a written notice stating the purchase price of the dwelling-house and the amount of the discount and whether the landlord intends to redeem the charge in respect of the dwelling-house on the grant of the lease or the conveyance of the freehold to the tenant pursuant to the right to acquire.

(3) If the landlord's notice states that he intends to redeem the charge then, on the grant of the lease or the conveyance of the freehold, the sum required to redeem the charge shall be paid by the landlord to the charge holder and the charge holder shall supply to the landlord the necessary documentation to release the charge in respect of the dwelling-house.

(4) If the landlord does not intend to redeem the charge on the grant of the lease or conveyance of the freehold, the landlord's notice shall, in addition, offer to the holder of the sole charge or the charge having priority the option of either—

- (a) subject to sub-paragraph (5), taking as alternative security a charge on the interest in a property of the landlord which has a value (excluding any amount secured by a charge with priority on the landlord's interest in the property) equal to or greater than the purchase price of the dwelling-house plus the discount, or
- (b) an amount equal to the purchase price of the dwelling-house plus the discount.

(5) The landlord shall not be required to offer a property as alternative security unless the landlord owns a freehold or leasehold interest in a property with a value (excluding any amount secured by a charge on the interest which is being offered in the property) equal to or greater than the purchase price plus discount.

(6) Where sub-paragraph (4) applies within 14 days of receipt of the landlord's notice the charge holder shall serve on the landlord a written notice stating the option exercised by the charge holder.

(7) Where the charge holder exercises the option specified in sub-paragraph (4)(a) the landlord shall within 14 days of receipt of the charge holder's notice offer the charge holder a specified property in accordance with that sub-paragraph.

(8) Where the charge holder accepts the property offered as alternative security the landlord shall take all reasonable steps to enable the charge holder to secure a charge against the landlord's interest in the property within whichever is the later of—

- (a) 21 days of the date on which the landlord receives notification of the charge holder's acceptance of the property as alternative security, or
- (b) the grant of the lease or the conveyance of the freehold of the dwelling-house pursuant to the right to acquire.

(9) If the landlord fails to take all reasonable steps to enable the charge holder to secure a charge against the landlord's interest in accordance with sub-paragraph (8) the charge holder may require the landlord to pay within 7 days an amount equal to the purchase price of the dwelling-house plus discount.

(10) Where the charge holder rejects the property offered as alternative security the charge holder may require the landlord to pay an amount equal to the purchase price of the dwelling-house plus the discount within whichever is the later of—

- (a) 21 days of the date on which the landlord receives notification of the charge holder's rejection of the property, or

(b) the grant of the lease or the conveyance of the freehold of the dwelling-house pursuant to the right to acquire.

(11) Where the charge holder exercises the option in sub-paragraph (4)(b) the landlord shall pay the sum specified in that sub-paragraph on the grant of a lease or the conveyance of the freehold of the dwelling-house pursuant to the right to acquire.

Discharge of the charge on the landlord's interest in the dwelling-house

23.—(1) Where the landlord and the charge holder have agreed in writing that the provisions of paragraph 22 shall not apply on the grant of the lease or the conveyance of the freehold pursuant to the right to acquire the landlord shall supply to the tenant a certificate confirming the agreement together with a copy of the agreement which is certified as a true copy.

(2) Where the provisions of paragraph 22 apply, provided that the landlord has complied with the requirements imposed on the landlord by that paragraph any holder of a charge on the landlord's interest in the dwelling-house shall, on the grant of the lease or the conveyance of the freehold of the dwelling-house pursuant to the right to acquire, provide to the landlord such documentation as is necessary to discharge their charge in respect of the dwelling-house.

(3) Where a charge holder does not provide the documentation in accordance with sub-paragraph (2), or where the charge holder has failed to serve a notice in accordance with paragraph 22(6), the landlord shall, on the grant of the lease or the conveyance of the freehold pursuant to the right to acquire, supply to the tenant a certificate stating that the landlord has complied with the requirements imposed on the landlord by paragraph 22.

(4) A certificate under sub-paragraphs (1) or (3) shall be effective to release the dwelling-house from the charge on the interest of the landlord to which the certificate applies but shall not affect the personal liability of the landlord or any other person in respect of any obligation which such a charge was created to secure.

(5) A certificate under sub-paragraphs (1) or (3) shall—

(a) be in a form approved by the Chief Land Registrar, and

(b) signed by such officer of the landlord or such other person as may be approved by the Chief Land Registrar.

(6) The Chief Land Registrar shall, for the purpose of registration of title, accept such certificate as sufficient evidence of the facts stated in it, but if as a result he has to meet a claim against him under the Land Registration Acts 1925 to 1971 the landlord is liable to indemnify him.