

*Status: Point in time view as at 29/04/2021.*

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## SCHEDULES

### [<sup>F1</sup>SCHEDULE 4A

#### EXCLUSION OF CERTAIN SHARED OWNERSHIP LEASES

##### Textual Amendments

**F1** Schedule 4A inserted by [Housing and Planning Act 1986 \(c. 63, SIF 75:1\)](#), s. 18, [Sch. 4 para. 6](#)

##### *Leases granted in pursuance of right to be granted a shared ownership lease*

- 1 A lease granted in pursuance of the right to be granted a shared ownership lease under Part V of the Housing Act <sup>M1</sup> 1985 is excluded from the operation of this Part of this Act.

##### Marginal Citations

**M1** [1985 c.68 \(61\)](#)

##### *Certain leases granted by certain public authorities*

- 2 (1) A lease which—
- (a) was granted at a premium by a body mentioned in sub-paragraph (2), and
  - (b) complies with the conditions set out in sub-paragraph (3),
- is excluded from the operation of this Part at any time when the interest of the landlord belongs to such a body [<sup>F2</sup>, to a relevant housing provider][<sup>F3</sup> or to a person who acquired that interest in exercise of the right conferred by Part IV of the Housing Act 1988].
- (2) The bodies are—
- (a) a county, [<sup>F4</sup>county borough,] district or London borough council, the Common Council of the City of London or the Council of the Isles of Scilly;
  - (b) <sup>F5</sup> . . . a joint authority established by Part IV of the Local Government Act <sup>M2</sup>1985;
    - [ <sup>F6</sup>(ba) a fire and rescue authority created by an order under section 4A of the Fire and Rescue Services Act 2004;]
    - [ <sup>F7</sup>(bb) [<sup>F8</sup>the London Fire Commissioner;]
    - [ <sup>F9</sup>(bc) a Mayoral development corporation;]

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- (c) the [<sup>F10</sup>new towns residuary body] or a development corporation established by an order made, or having effect as made, under the New Towns Act <sup>M3</sup>1981;
- (d) an urban development corporation within the meaning of Part XVI of the Local Government, Planning and Land Act <sup>M4</sup>1980;
- <sup>F11</sup>(e) . . . . .
- [<sup>F12</sup>(f) a housing action trust established under Part III of the Housing Act 1988]
- (3) The conditions are that the lease—
- (a) provides for the tenant to acquire the freehold for a consideration which is to be calculated in accordance with the lease and which is reasonable, having regard to the premium or premiums paid by the tenant under the lease, and
- (b) states the landlord’s opinion that by virtue of this paragraph the tenancy will be excluded from the operation of this Part of this Act at any time when the interest of the landlord belongs to a body mentioned in sub-paragraph (2) above [<sup>F13</sup>or to a relevant housing provider].
- (4) If, in proceedings in which it falls to be determined whether a lease complies with the condition in sub-paragraph (3)(a), the question arises whether the consideration payable by the tenant on acquiring the freehold is reasonable, it is for the landlord to show that it is.
- <sup>F14</sup>(5) In this paragraph “relevant housing provider” means—
- (a) in relation to a lease of social housing within the meaning of Part 2 of the Housing and Regeneration Act 2008, a private registered provider of social housing, or
- (b) a registered social landlord within the meaning of Part 1 of the Housing Act 1996.]

#### Textual Amendments

- F2** Words in Sch. 4A para. 2(1) substituted (1.4.2010) by [The Housing and Regeneration Act 2008 \(Consequential Provisions\) Order 2010 \(S.I. 2010/866\)](#), art. 1(2), **Sch. 2 para. 2(2)(a)** (with art. 6, Sch. 3)
- F3** Words added by [Housing Act 1988 \(c. 50, SIF 61\)](#), s. 140, **Sch. 17 para. 17(1)**
- F4** Words in Sch. 4A para. 2(2)(a) inserted (1.4.1996) by 1994 c. 19, s. 22(2), **Sch. 8 para. 1(2)** (with ss. 54(5)(7), 55(5), Sch. 17 paras. 22(1), 23(2)); S.I. 1996/396, **art. 3 Sch. 1**
- F5** Words repealed by [Education Reform Act 1988 \(c. 40, SIF 41:1\)](#), ss. 231(7), 235(6), 237, **Sch. 13 Pt. I**
- F6** Sch. 4A para. 2(2)(ba) inserted (31.1.2017 for specified purposes, 3.4.2017 in so far as not already in force) by [Policing and Crime Act 2017 \(c. 3\)](#), s. 183(1)(5)(e), **Sch. 1 para. 19**; S.I. 2017/399, **reg. 2, Sch. para. 38**
- F7** Sch. 4A para. 2(bb) inserted (3.7.2000) by 1999 c. 29, s. 328(8), **Sch. 29 Pt. I para. 9** (with Sch. 12 para. 9(1)); S.I. 2000/1094, **art. 4(a)(h)**
- F8** Sch. 4A para. 2(2)(bb) substituted (31.1.2017 for specified purposes, 1.4.2018 in so far as not already in force) by [Policing and Crime Act 2017 \(c. 3\)](#), s. 183(1)(5)(e), **Sch. 2 para. 29**; S.I. 2018/277, **reg. 4(c)**
- F9** Sch. 4A para. 2(2)(bc) inserted (15.1.2012) by [Localism Act 2011 \(c. 20\)](#), s. 240(1)(l), **Sch. 22 para. 1**
- F10** Words in Sch. 4A para. 2(2)(c) substituted (1.12.2008) by [Housing and Regeneration Act 2008 \(c. 17\)](#), s. 325(1), **Sch. 8 para. 12**; S.I. 2008/3068, art. 2(1)(w)(3) (with arts. 6-13)
- F11** Sch. 4A para. 2(2)(e) repealed (1.10.1998) by 1998 c. 38, s. 152, **Sch. 18 Pt. IV** (with ss. 137(1), 139(2), 141(1), 143(2)); S.I. 1998/2244, **art. 4**
- F12** Para. 2(2)(f) added by [Housing Act 1988 \(c. 50, SIF 61\)](#), s. 140, **Sch. 17 para. 17(2)**

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- F13** Words in Sch. 4A para. 2(3)(b) substituted (1.4.2010) by [The Housing and Regeneration Act 2008 \(Consequential Provisions\) Order 2010 \(S.I. 2010/866\)](#), art. 1(2), **Sch. 2 para. 2(2)(b)** (with art. 6, Sch. 3)
- F14** Sch. 4A para. 2(5) substituted (1.4.2010) by [The Housing and Regeneration Act 2008 \(Consequential Provisions\) Order 2010 \(S.I. 2010/866\)](#), art. 1(2), **Sch. 2 para. 2(2)(c)** (with art. 6, Sch. 3)

**Modifications etc. (not altering text)**

- C1** Sch. 4A para. 2 extended (5.7.1994) by [1994 c. 19, ss. 39, 66\(2\)\(b\)](#), **Sch. 13 para. 24(c)** (with ss. 54(5) (7), 55(5), Sch. 17 paras. 22(1), 23(2))

**Marginal Citations**

- M2** [1985 c.51 \(81:1\)](#).  
**M3** [1981 c.64 \(123:3\)](#).  
**M4** [1980 c.65 \(123:1, 2\)](#).

*[<sup>F15</sup> Certain leases granted by housing associations][<sup>F15</sup> Certain housing association and other leases]*

**Textual Amendments**

- F15** Sch. 4A para. 3 cross-heading substituted (1.12.2008 for E. for specified purposes, 7.9.2009 for E. in so far as not already in force) by [Housing and Regeneration Act 2008 \(c. 17\)](#), **ss. 301(2), 325(1)**; [S.I. 2008/3068, art. 4\(5\)](#) (with [arts. 6-13](#)); [S.I. 2009/2096, art. 2\(2\)\(b\)](#) (with art. 3(1)(2))

- 3 (1) A lease granted by a housing association and which complies with the conditions set out in sub-paragraph (2) is excluded from the operation of this Part of this Act, whether or not the interest of the landlord still belongs to such an association.
- (2) The conditions are that the lease—
- (a) was granted for a term of 99 years or more and is not (and cannot become) terminable except in pursuance of a provision for re-entry or forfeiture;
  - (b) was granted at a premium, calculated by reference to the value of the house or the cost of providing it, of not less than 25 per cent., or such other percentage as may be prescribed, of the figure by reference to which it was calculated;
  - (c) provides for the tenant to acquire additional shares in the house on terms specified in the lease and complying with such requirements as may be prescribed;
  - <sup>F16</sup>(d) .....
  - (e) if it enables the landlord to require payment for outstanding shares in the house, does so only in such circumstances as may be prescribed;
  - (f) provides for the tenant to acquire the landlord’s interest on terms specified in the lease and complying with such requirements as may be prescribed; and
  - (g) states the landlord’s opinion that by virtue of this paragraph the lease is excluded from the operation of this Part of this Act.
- (3) In any proceedings the court may, if of the opinion that it is just and equitable to do so, treat a lease as satisfying the conditions in sub-paragraph (2) notwithstanding that the condition specified in paragraph (g) of that sub-paragraph is not satisfied.
- (4) In this paragraph “housing association” has the same meaning as in the Housing Associations Act <sup>M5</sup>1985.

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#### Textual Amendments

**F16** Sch. 4A para. 3(2)(d) repealed (26.7.2002 for E. and 1.1.2003 for W.) by [2002 c. 15, ss. 143\(3\), 180, Sch. 14](#); [S.I. 2002/1912, art. 2\(b\)\(ii\)](#), [Sch. 1 Pt. 3](#) (subject to transitional provisions and savings in Sch. 2 of the commencing S.I.); [S.I. 2002/3012, art. 2\(b\)\(ii\)](#), [Sch. 1 Pt. 3](#) (subject to transitional provisions and savings in Sch. 2 of the commencing S.I.)

#### Marginal Citations

**M5** [1985 c.69 \(61\)](#).

<sup>F15</sup><sub>F17</sub> (1) A lease which does not fall within paragraph 3 is excluded from the operation of this Part of this Act if the lease—

- (a) meets the conditions mentioned in sub-paragraph (2);
- (b) meets any other prescribed conditions; and
- (c) does not fall within any prescribed exemptions.

(2) The conditions referred to in sub-paragraph (1)(a) are that the lease—

- (a) was granted for a term of 99 years or more and is not (and cannot become) terminable except in pursuance of a provision for re-entry or forfeiture;
- (b) was granted at a premium, calculated by reference to the value of the house or the cost of providing it, of not less than 25 per cent, or such other percentage as may be prescribed, of the figure by reference to which it was calculated;
- (c) provides for the tenant to acquire additional shares in the house on terms specified in the lease and complying with such requirements as may be prescribed;
- (d) does not restrict the tenant's powers to mortgage or charge his interest in the house;
- (e) if it enables the landlord to require payment for outstanding shares in the house, does so only in such circumstances as may be prescribed;
- (f) provides for the tenant to acquire the landlord's interest on terms specified in the lease and complying with such requirements as may be prescribed; and
- (g) states the landlord's opinion that by virtue of this paragraph the lease is excluded from the operation of this Part of this Act.

(3) In any proceedings the court may, if it considers that it is just and equitable to do so, treat a lease as meeting the conditions mentioned in sub-paragraph (2) despite the fact that the condition specified in paragraph (g) of that sub-paragraph is not met.]

#### Textual Amendments

**F17** Sch. 4A para. 3A inserted (1.12.2008 for E. for specified purposes, 7.9.2009 for E. in so far as not already in force) by [Housing and Regeneration Act 2008 \(c. 17\), ss. 301\(1\), 325\(1\)](#); [S.I. 2008/3068, art. 4\(5\)](#) (with arts. 6-13); [S.I. 2009/2096, art. 2\(2\)\(b\)](#) (with art. 3(1)(2))

4 (1) A lease for the elderly granted by a [<sup>F18</sup>registered housing association] and which complies with the conditions set out in sub-paragraph (2) is excluded from the operation of this Part of this Act at any time when the interest of the landlord belongs to [<sup>F19</sup>a relevant housing provider] .

(2) The conditions are that the lease—

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- (a) is granted at a premium which is calculated by reference to a percentage of the value of the house or of the cost of providing it,
- (b) complies, at the time when it is granted, with such requirements as may be prescribed, and
- (c) states the landlord's opinion that by virtue of this paragraph the lease will be excluded from the operation of this Part of this Act at any time when the interest of the landlord belongs to <sup>F20</sup>a relevant housing provider] .

(3) In this paragraph—

“lease for the elderly” has such meaning as may be prescribed; and

<sup>F21</sup>“relevant housing provider” means—

- (a) in relation to a lease of social housing within the meaning of Part 2 of the Housing and Regeneration Act 2008, a private registered provider of social housing, or
- (b) a registered social landlord within the meaning of Part 1 of the Housing Act 1996.]

#### Textual Amendments

- F18** Words in Sch. 4A para. 4(1) substituted (1.10.1996) by [S.I. 1996/2325](#), art. 5(1), **Sch. 2 para. 1(1)(2)(a)**
- F19** Words in Sch. 4A para. 4(1) substituted (1.4.2010) by [The Housing and Regeneration Act 2008 \(Consequential Provisions\) Order 2010 \(S.I. 2010/866\)](#), art. 1(2), **Sch. 2 para. 2(3)(a)** (with art. 6, Sch. 3)
- F20** Words in Sch. 4A para. 4(2)(c) substituted (1.4.2010) by [The Housing and Regeneration Act 2008 \(Consequential Provisions\) Order 2010 \(S.I. 2010/866\)](#), art. 1(2), **Sch. 2 para. 2(3)(a)** (with art. 6, Sch. 3)
- F21** Words in Sch. 4A para. 4(3) substituted (1.4.2010) by [The Housing and Regeneration Act 2008 \(Consequential Provisions\) Order 2010 \(S.I. 2010/866\)](#), art. 1(2), **Sch. 2 para. 2(3)(b)** (with art. 6, Sch. 3)

#### *Certain leases in protected areas*

[ <sup>F22</sup>4A (1) A lease which does not fall within paragraph 3 or 3A is excluded from the operation of this Part of this Act if—

- (a) the lease meets the conditions mentioned in sub-paragraph (2);
- (b) any provision in the lease for the tenant to acquire the landlord's interest provides for the tenant to acquire the interest on terms specified in the lease and complying with such requirements as may be prescribed;
- (c) the lease meets any other prescribed conditions;
- (d) the lease does not fall within any prescribed exemptions; and
- (e) the house is in a protected area.

(2) The conditions referred to in sub-paragraph (1)(a) are that the lease—

- (a) was granted for a term of 99 years or more and is not (and cannot become) terminable except in pursuance of a provision for re-entry or forfeiture;
- (b) was granted at a premium, calculated by reference to the value of the house or the cost of providing it, of not less than 25 per cent, or such other percentage as may be prescribed, of the figure by reference to which it was calculated;
- (c) provides for the tenant to acquire additional shares in the house on terms specified in the lease and complying with such requirements as may be prescribed;

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- (d) does not restrict the tenant's powers to mortgage or charge his interest in the house;
  - (e) if it enables the landlord to require payment for outstanding shares in the house, does so only in such circumstances as may be prescribed; and
  - (f) states the landlord's opinion that by virtue of this paragraph the lease is excluded from the operation of this Part of this Act.
- (3) The appropriate national authority may by order made by statutory instrument designate an area as a protected area if it considers it appropriate to do so to support the provision in the area of houses, or descriptions of houses, which are available for occupation in accordance with shared ownership arrangements.
- (4) The appropriate national authority must publish the criteria for the time being in force which are to be taken into account by it in deciding whether to designate an area as a protected area.
- (5) Before making an order under sub-paragraph (3) the appropriate national authority must take such steps as it considers to be reasonable to consult those likely to be affected by the order.
- (6) In any proceedings the court may, if it considers that it is just and equitable to do so, treat a lease as meeting the conditions mentioned in sub-paragraph (2) despite the fact that the condition mentioned in paragraph (f) of that sub-paragraph is not met.
- (7) An order under this paragraph may contain such incidental, supplementary, transitory, transitional or saving provisions as the appropriate national authority considers appropriate.
- (8) In this paragraph “shared ownership arrangements” has the same meaning as in section 70 of the Housing and Regeneration Act 2008.
- (9) An instrument containing—
- (a) an order of the Secretary of State under this paragraph is subject to annulment in pursuance of a resolution of either House of Parliament;
  - (b) an order of the Welsh Ministers under this paragraph is subject to annulment in pursuance of a resolution of the National Assembly for Wales.]

#### **Textual Amendments**

**F22** Sch. 4A para. 4A and cross-heading inserted (1.12.2008 for E. for specified purposes, 7.9.2009 for E. in so far as not already in force) by [Housing and Regeneration Act 2008 \(c. 17\)](#), **ss. 302(1), 325(1)**; [S.I. 2008/3068](#), **art. 4(5)** (with [arts. 6-13](#)); [S.I. 2009/2096](#), **art. 2(2)(b)** (with [art. 3\(1\)\(2\)](#))

#### *Power to prescribe matters by regulations*

- 5 (1) The [<sup>F23</sup>Secretary of State][<sup>F23</sup>appropriate national authority] may by regulations prescribe anything requiring to be prescribed for the purposes of this Schedule.
- (2) The regulations may—
- (a) make different provision for different cases or descriptions of case, including different provision for different areas, and

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- (b) contain such incidental, supplementary or transitional provisions as the [<sup>F24</sup>Secretary of State][<sup>F24</sup>appropriate national authority] considers appropriate,

and shall be made by statutory instrument which [<sup>F25</sup>, in the case of regulations made by the Secretary of State,] shall be subject to annulment in pursuance of a resolution of either House of Parliament [<sup>F26</sup>and, in the case of regulations made by the Welsh Ministers, shall be subject to annulment in pursuance of a resolution of the National Assembly for Wales] .

#### Textual Amendments

- F23** Words in [Sch. 4A para. 5\(1\)](#) substituted (1.12.2008 for E. for specified purposes, 7.9.2009 for E. in so far as not already in force) by [Housing and Regeneration Act 2008 \(c. 17\)](#), **ss. 302(2)(a)**, 325(1); S.I. 2008/3068, art. 4(5) (with arts. 6-13); S.I. 2009/2096, art. 2(2)(b) (with art. 3(1)(2))
- F24** Words in [Sch. 4A para. 5\(2\)\(b\)](#) substituted (1.12.2008 for E. for specified purposes, 7.9.2009 for E. in so far as not already in force) by [Housing and Regeneration Act 2008 \(c. 17\)](#), **ss. 302(2)(b)(i)**, 325(1); S.I. 2008/3068, art. 4(5) (with arts. 6-13); S.I. 2009/2096, art. 2(2)(b) (with art. 3(1)(2))
- F25** Words in [Sch. 4A para. 5\(2\)](#) inserted (1.12.2008 for E. for specified purposes, 7.9.2009 for E. in so far as not already in force) by [Housing and Regeneration Act 2008 \(c. 17\)](#), **ss. 302(2)(b)(ii)**, 325(1); S.I. 2008/3068, art. 4(5) (with arts. 6-13); S.I. 2009/2096, art. 2(2)(b) (with art. 3(1)(2))
- F26** Words in [Sch. 4A para. 5\(2\)](#) inserted (1.12.2008 for E. for specified purposes, 7.9.2009 for E. in so far as not already in force) by [Housing and Regeneration Act 2008 \(c. 17\)](#), **ss. 302(2)(b)(iii)**, 325(1); S.I. 2008/3068, art. 4(5) (with arts. 6-13); S.I. 2009/2096, art. 2(2)(b) (with art. 3(1)(2))

#### Interpretation

- 6 In this Schedule “lease” means a lease at law or in equity, and references to the grant of a lease shall be construed accordingly.]

- [<sup>F27</sup> In this Schedule “appropriate national authority” means—  
(a) in relation to England, the Secretary of State; and  
(b) in relation to Wales, the Welsh Ministers.]

#### Textual Amendments

- F27** [Sch. 4A para. 7](#) inserted (1.12.2008 for E. for specified purposes, 7.9.2009 for E. in so far as not already in force) by [Housing and Regeneration Act 2008 \(c. 17\)](#), **ss. 302(3)**, 325(1); S.I. 2008/3068, art. 4(5) (with arts. 6-13); S.I. 2009/2096, art. 2(2)(b) (with art. 3(1)(2))

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