

Status: Point in time view as at 01/02/1991.

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SCHEDULES

SCHEDULE 20 **E+W**

Section 547.

ASSISTANCE BY WAY OF REPURCHASE

PART I **E+W**

THE AGREEMENT TO REPURCHASE

The interest to be acquired

- 1 In this Schedule “the interest to be acquired” means the interest of the person entitled to assistance by way of repurchase, so far as subsisting in—
- (a) the defective dwelling, and
 - (b) any garage, outhouse, garden, yard and appurtenances occupied and used for the purposes of the dwelling or a part of it.

Request for notice of proposed terms of acquisition

- 2 (1) A person who is entitled to assistance by way of repurchase, may, within the period of three months beginning with the service of the notice of determination, or that period as extended, request the purchasing authority in writing to notify him of the proposed terms and conditions for their acquisition of the interest to be acquired.
- (2) The authority shall, if there are reasonable grounds for doing so, by notice in writing served on the person so entitled, extend, or further extend, the period within which he may make a request under this paragraph (whether or not the period has expired).

Authority's notice of proposed terms

- 3 The purchasing authority shall, within the period of three months beginning with the making of a request under paragraph 2, serve on the person so entitled a notice in writing specifying the proposed terms and conditions and stating—
- (a) their opinion as to the value of the interest to be acquired, and
 - (b) the effect of the following provisions of this Part of this Schedule.

Settlement of terms

- 4 Subject to the provisions of Part II of this Schedule (price payable and valuation), an agreement for the acquisition by the purchasing authority of the interest to be acquired shall contain such provisions as the parties agree or, in default of agreement, are determined in accordance with this Part of this Act to be reasonable.

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Service of draft agreement

- 5 The authority shall, within three months of all the provisions to be included in the agreement being agreed or determined—
- (a) draw up for execution by the parties an agreement embodying those provisions, and
 - (b) serve a copy of the agreement on the person entitled to assistance.

Notice to enter into agreement

- 6 (1) The person entitled to assistance may, at any time within the period of six months beginning with the service of the copy of the agreement, or within that period as extended, notify the authority in writing that he requires them to enter into an agreement embodying those provisions and the authority shall comply with the requirement.
- (2) The authority shall, if there are reasonable grounds for doing so, by notice in writing served on the person so entitled extend, or further extend, the period within which a notice under this paragraph may be given (whether or not the period has expired).

PART II E+W

PRICE PAYABLE AND VALUATION

The price

- 7 (1) The price payable for the acquisition of an interest in pursuance of this Part of this Act is 95 per cent. of the value of the interest at the relevant time.
- (2) In this Schedule “the relevant time” means the time at which the notice under paragraph 3 above (authority’s notice of proposed terms of acquisition) is served on the person entitled to assistance.

The value

- 8 (1) For the purposes of this Schedule, the value of an interest at the relevant time is the amount which, at that time, would be realised by a disposal of the interest on the open market by a willing seller to a person other than the purchasing authority on the following assumptions—
- (a) that none of the defective dwellings to which the designation in question relates is affected by the qualifying defect;
 - (b) that no liability has arisen or will arise under a covenant required by section 35 or 155 (covenant to repay discount) or paragraph 6(1) of Schedule 8 (terms of shared ownership lease: covenant to pay for outstanding share), or any covenant to the like effect;
 - (c) that no obligation to acquire the interest arises under this Part of this Act; and
 - (d) that (subject to the preceding paragraphs) the seller is selling with and subject to the rights and burdens with and subject to which the disposal is to be made.
- (2) Where the value of an interest falls to be considered at a time later than the relevant time and there has been since the relevant time a material change in the circumstances

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affecting the value of the interest, the value at the relevant time shall be determined on the further assumption that the change had occurred before the relevant time.

- (3) In determining the value of an interest no account shall be taken of any right to the grant of a tenancy under section 554 (former owner-occupier) or section 555 (former statutory tenant).

Determination of value

- 9 (1) Any question arising under this Schedule as to the value of an interest in a defective dwelling shall be determined by the district valuer in accordance with this paragraph.
- (2) The person entitled to assistance or the purchasing authority may require that value to be determined or redetermined by notice in writing served on the district valuer—
- (a) within the period beginning with the service on the person entitled to assistance of a notice under paragraph 3 above (authority's notice of proposed terms of acquisition) and ending with the service under paragraph 5 above of the copy of the agreement drawn up for execution by the parties, or
 - (b) after the end of that period but before the parties enter into an agreement for the acquisition of the interest of the person so entitled, if there is a material change in the circumstances affecting the value of the interest.
- (3) A person serving notice on the district valuer under this paragraph shall serve notice in writing of that fact on the other party.
- (4) Before making a determination in pursuance of this paragraph, the district valuer shall consider any representation made to him, within four weeks of the service of the notice under this paragraph, by the person entitled to assistance or the purchasing authority.

Service of amended draft agreement

- 10 Where the value of an interest is determined, or redetermined, in pursuance of a notice served under paragraph 9(2)(b) (notice given after service of draft agreement)—
- (a) the purchasing authority shall comply again with paragraph 5 (service of draft agreement within three months of terms being settled), and
 - (b) paragraph 6 (notice to enter into agreement) shall apply in relation to that agreement instead of the earlier one.

PART III **E+W**

SUPPLEMENTARY PROVISIONS

Introductory

- 11 (1) In this Part of this Schedule “the agreement” means the agreement entered into in pursuance of Parts I and II of this Schedule, and—
- “the authority” means the authority acquiring an interest in a defective dwelling under the agreement;
 - “the conveyance” means the conveyance executed under the agreement;

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“the interest acquired” means the interest in the dwelling concerned of which the vendor disposes under the agreement;

“the purchase price” means the price which the agreement requires the authority to pay for the interest acquired; and

“the vendor” means the person with whom the authority enter into the agreement.

(2) In this Part of this Schedule—

- (a) references to a charge include a mortgage or lien, but not a rentcharge within the meaning of the ^{M1}Rentcharges Act 1977, and
- (b) references to a relevant charge are to a charge to which the interest acquired is subject immediately before the conveyance and which secures the performance of an obligation but is not either a local land charge or a charge which is, or would be, overreached by the conveyance apart from this Schedule.

Marginal Citations

M1 1977 c. 30.

Conveyance frees interest acquired from relevant charges

- 12 (1) The conveyance is effective—
- (a) to discharge the interest acquired from any relevant charge,
 - (b) to discharge the interest acquired from the operation of any order made by a court for the enforcement of such a charge, and
 - (c) to extinguish any term of years created for the purposes of such a charge,
- without the persons entitled to or interested in such a charge, order or term of years becoming parties to or executing the conveyance.
- (2) The effect of this paragraph is restricted to discharging the interest acquired from the charge and does not affect personal liabilities.
- (3) This paragraph does not prevent a person from joining in the conveyance for the purpose of discharging the interest acquired from a charge.
- (4) The operation of this paragraph is subject to paragraph 14 (effect of failure to apply purchase price in or towards satisfaction of charge).

Application of purchase price in satisfaction of relevant charges

- 13 (1) The authority shall apply the purchase price in the first instance in or towards the redemption of any relevant charge securing the payment of money (if there is more than one, then according to their priorities), subject to the provisions of this paragraph.
- (2) For the purposes of this paragraph—
- (a) a person entitled to a charge may not exercise a right to consolidate the charge with a separate charge on other property;
 - (b) a person may be required to accept three months’ or longer notice of the intention to repay the principal or any part of it secured by the charge,

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together with interest to the date of payment, notwithstanding that this differs from the terms of the security as to the time and manner of payment;

- (c) a charge to which the vendor or the authority themselves are entitled ranks for payment as it would if another person were entitled to it; and
- (d) where a person, without payment or for less payment than he would otherwise be entitled to, joins in the conveyance for the purpose of discharging the interest acquired from a charge, the persons to whom the purchase price ought to be paid shall be determined accordingly.

(3) This paragraph does not apply to—

- (a) a charge in favour of the holders of a series of debentures issued by a body, or
- (b) a charge in favour of trustees for such debenture holders which at the date of the conveyance is a floating charge;

and the authority shall disregard such charges in performing their duty under this paragraph.

- 14 If the authority do not apply an amount which under paragraph 13 they are required to apply in or towards the redemption of a charge (and do not pay that amount into court in accordance with paragraph 15), the charge is not discharged by virtue of paragraph 12 and the interest acquired remains subject to the charge as security for that amount.

Power to make payment into court in case of difficulty

- 15 (1) Where a person is or may be entitled by virtue of paragraph 13 to receive, in respect of a relevant charge, the whole or part of the purchase price and—

- (a) for any reason difficulty arises in ascertaining how much is payable in respect of the charge, or
- (b) for any reason mentioned in sub-paragraph (2) difficulty arises in making a payment in respect of the charge,

the authority may pay into court on account of the purchase price the amount, if known, of the payment to be made in respect of the charge or, if the amount is not known, the whole of the purchase price, or such lesser amount as the authority think right in order to provide for that payment.

(2) The reasons referred to in sub-paragraph (1)(b) are—

- (a) that a person who is or may be entitled to receive payment cannot be found or ascertained;
- (b) that any such person refuses or fails to make out a title, or to accept payment and give a proper discharge, or to take any step reasonably required of him to enable the sum payable to be ascertained and paid; or
- (c) that a tender of the sum payable cannot, by reason of complications in the entitlement to payment or the want of two or more trustees or for other reasons, be effected, or not without incurring or involving unreasonable cost or delay.

Duty to pay into court in certain cases

- 16 (1) The authority shall pay the purchase price into court if, before the execution of the conveyance, written notice is given to them—

- (a) that the vendor, or a person entitled to a charge on the interest to be acquired, so requires either for the purpose of protecting the rights of persons so

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entitled or for reasons related to the bankruptcy or winding up of the vendor,
or

- (b) that steps have been taken to enforce a charge on the interest to be acquired by the bringing of proceedings in a court, by the appointment of a receiver or otherwise.

- (2) Where a payment into court is made by reason only of a notice under this paragraph and the notice is given with reference to proceedings in a specified court (other than the county court), payment shall be made into that court.

Registration of title

- 17 (1) Section 123 of the ^{M2}Land Registration Act 1925 (compulsory registration of title) applies in relation to the conveyance whether or not the dwelling concerned is in an area in which an Order in Council under section 120 of that Act is in force (areas of compulsory registration).
- (2) For the purposes of registration of title to the land acquired by the authority—
- (a) the authority shall give to the Chief Land Registrar a certificate stating that the person from whom the relevant interest was acquired to convey the interest subject only to such incumbrances, rights and interests as are stated in the conveyance or summarised in the certificate, and
- (b) the Chief Land Registrar shall accept the 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 authority shall indemnify him.
- (3) A certificate under sub-paragraph (2) shall be in a form approved by the Chief Land Registrar and shall be signed by such officer of the authority, or such other person, as may be approved by the Chief Land Registrar.

Marginal Citations

M2 1925 c. 21.

Interest acquired by local housing authority treated as acquired under Part II

- 18 If the authority are a local housing authority, the interest acquired by them shall be treated as acquired by them under section 17 (acquisition of land for purposes of Part II (provision of housing)).

Certain grant conditions cease to have effect

- 19 (1) Where the interest acquired is or includes a dwelling in relation to which an improvement grant, intermediate grant, special grant or repairs grant has been paid under Part XV—
- (a) any grant condition imposed under or by virtue of that Part ceases to be in force with respect to the dwelling with effect from the time of disposal of the interest, and

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- (b) the owner for the time being of the dwelling is not liable to make in relation to the grant any payment under section 506 (repayment of grant for breach of condition) except in pursuance of a demand made before the time of disposal of the interest.

(2) In this paragraph “dwelling” and “owner” have the same meaning as in Part XV.

Overreaching effect of conveyance

20 The conveyance has effect under section 2(1) of the ^{M3}Law of Property Act 1925 (conveyances overreaching certain equitable interests and powers) to overreach any incumbrance capable of being overreached under that section—

- (a) as if the requirements to which that section refers as to the payment of capital money allowed any part of the purchase price paid under paragraph 13, 15 or 16 (payment in satisfaction of charge or into court) to be so paid, and
- (b) where the interest conveyed is settled land, as if the conveyance were made under the powers of the ^{M4}Settled Land Act 1925.

Marginal Citations

M3 1925 c. 20.

M4 1925 c. 18.

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