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SCHEDULES

SCHEDULE 4

Sections 119 and 129.

QUALIFYING PERIOD FOR RIGHT TO BUY AND DISCOUNT

Introductory

- 1 The period to be taken into account—
- (a) for the purposes of section 119 (qualification for right to buy), and
 - (b) for the purposes of section 129 (discount).
- is the period qualifying, or the aggregate of the periods qualifying, under the following provisions of this Schedule.

Periods occupying accommodation subject to public sector tenancy

- 2 A period qualifies under this paragraph if it is a period during which, before the relevant time—
- (a) the secure tenant, or
 - (b) his spouse (if they are living together at the relevant time), or
 - (c) a deceased spouse of his (if they were living together at the time of the death),
- was a public sector tenant or was the spouse of a public sector tenant and occupied as his only or principal home the dwelling-house of which the spouse was such a tenant.
- 3 For the purposes of paragraph 2 a person who, as a joint tenant under a public sector tenancy, occupied a dwelling-house as his only or principal home shall be treated as having been the public sector tenant under that tenancy.
- 4 (1) This paragraph applies where the public sector tenant of a dwelling-house died or otherwise ceased to be a public sector tenant of the dwelling-house, and thereupon a child of his who occupied the dwelling-house as his only or principal home (the “new tenant”) became the public sector tenant of the dwelling-house (whether under the same or under another public sector tenancy).
- (2) A period during which the new tenant, since reaching the age of 16, occupied as his only or principal home a dwelling-house of which a parent of his was the public sector tenant or one of joint tenants under a public sector tenancy, being either—
- (a) the period at the end of which he became the public sector tenant, or
 - (b) an earlier period ending two years or less before the period mentioned in paragraph (a) or before another period within this paragraph,
- shall be treated for the purposes of paragraph 2 as a period during which he was a public sector tenant.

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- (3) For the purposes of this paragraph two persons shall be treated as parent and child if they would be so treated under section 186(2) (members of a person’s family: relationships other than those of the whole blood).

Periods occupying forces accommodation

- 5 A period qualifies under this paragraph if it is a period during which, before the relevant time—
- (a) the secure tenant, or
 - (b) his spouse (if they are living together at the relevant time), or
 - (c) a deceased spouse of his (if they were living together at the time of the death),

occupied accommodation provided for him as a member of the regular armed forces of the Crown or was the spouse of a person occupying accommodation so provided and also occupied that accommodation.

[^{F1} Periods during which right to buy is preserved]

Textual Amendments

- F1** Sch. 4 para. 5A and cross heading inserted by [Housing and Planning Act 1986 \(c. 63, SIF 61\), s. 24\(2\)](#), [Sch. 5 Pt. II para. 40\(2\)](#); by [S.I. 1992/1753, art.2\(2\)](#) the insertion comes into force on 17.8.1992 (subject to a restriction in Sch. 1 para.5 of that S.I.)

- ^{F25A} A period qualifies under this paragraph if it is a period during which, before the relevant time—
- (a) the secure tenant, or
 - (b) his spouse (if they are living together at the relevant time), or
 - (c) a deceased spouse of his (if they were living together at the time of the death),

was a qualifying person for the purposes of the preserved right to buy or was the spouse of such a person and occupied the qualifying dwelling-house as his only or principal home.

Textual Amendments

- F2** Sch. 4 para. 5A and cross heading inserted by [Housing and Planning Act 1986 \(c. 63, SIF 61\), s. 24\(2\)](#), [Sch. 5 Pt. II para. 40\(2\)](#); by [S.I. 1992/1753, art. 2\(2\)](#) the insertion comes into force on 17.8.1992 (subject to a restriction in Sch. 1 para. 5 of that S.I.)

Modifications etc. (not altering text)

- C1** Sch. 4 para. 5A(a) modified (17.8.1992) by [S.I. 1992/1709, reg. 2\(a\)](#)

Meaning of “public sector tenant”

- 6 (1) In this Schedule a “public sector tenant” means a tenant under a public sector tenancy.

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- (2) For the purposes of this Schedule, a tenancy, other than a long tenancy, under which a dwelling-house was let as a separate dwelling was a public sector tenancy at any time when the conditions described below as the landlord condition and the tenant condition were satisfied.
- (3) The provisions of this Schedule apply in relation to a licence to occupy a dwelling-house (whether or not granted for consideration) as they apply in relation to a tenancy.
- (4) Sub-paragraph (3) does not apply to a licence granted as a temporary expedient to a person who entered the dwelling-house or any other land as a trespasser (whether or not, before the grant of that licence, another licence to occupy that or another dwelling-house had been granted to him).

The landlord condition

- 7 (1) The landlord condition is, subject to ^{F3}paragraph 7A and to] any order under paragraph 8, that the interest of the landlord belonged to, or to a predecessor of—
 - a local authority,
 - a new town corporation,
 - ^{F4}a housing action trust]
 - the Development Board for Rural Wales,
 - an urban development corporation,
 - the ^{F5}Corporation],
 - a ^{F6}registered social landlord] which is not a co-operative housing association,
..... ^{F7},or to, or to a predecessor of, an authority or other body falling within sub-paragraph (2) or (3) (corresponding authorities and bodies in Scotland and Northern Ireland),
- (2) The corresponding authorities and bodies in Scotland are—
 - a ^{F8}council constituted under section 2 of the Local Government etc. (Scotland) Act 1994],
 - a joint board or joint committee of such a council,
 - the common good of such a council or a trust under its control,
 - a development corporation established by an order made or having effect as if made under the ^{M1}New Towns (Scotland) Act 1968,
 - ^{F9}the Scottish Special Housing Association]
 - ^{F9}Scottish Homes],
 - a housing association which falls within ^{F10}section 61(2)(a)(vi) of the Housing (Scotland) Act 1987] but is not a registered society within the meaning of section ^{F10}45] of that Act, and
^{F11}.....
- (3) The corresponding authorities and bodies in Northern Ireland are—
 - a district council within the meaning of the ^{M2}Local Government Act (Northern Ireland) 1972,
 - the Northern Ireland Housing Executive, and

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a registered housing association within the meaning of Chapter II of Part II of the ^{M3}Housing (Northern Ireland) Order 1983.

Textual Amendments

- F3** Words in Sch. 4 para. 7(1) inserted (17.8.1992) by Housing and Planning Act 1986 (c. 63, SIF 61), s. 24(2), Sch. 5 Pt. II para. 40(3)(a); S.I. 1992/1753, art. 2(2) (subject to a restriction in Sch. para. 5)
- F4** Entry inserted by Housing Act 1988 (c. 50, SIF 61) s. 83(7)
- F5** Word substituted by Housing Act 1988 (c. 50, SIF 61), s. 140(1), Sch. 17 Pt. II para. 106
- F6** Words in Sch. 4 para. 7(1) substituted (1.10.1996) by S.I. 1996/2325, art. 5(1), Sch. 2 para. 14(32)
- F7** Words repealed by Housing and Planning Act 1986 (c. 63, SIF 61), s. 24(2)(3), Sch. 5 Pt. II para. 40(3)(a), Sch. 12 Pt. I
- F8** In Sch. 4 para. 7(2) for the reference to “regional, islands or district council” there is substituted a reference to “council constituted under section 2 of the Local Government etc. (Scotland) Act 1994” by 1994 c. 39, s. 180(1), Sch. 13 para. 142(3)(a) (which by s. 184(4) extends to Scotland only); S.I. 1996/323, art. 4(1)(c)
- F9** In Sch. 4 para. 7(2) for the reference to the Scottish Special Housing Association there is substituted a reference to Scottish Homes by Housing (Scotland) Act 1988 (c. 43, SIF 61), ss. 1, 3(3), Sch. 2 para. 1
- F10** By Housing (Scotland) Act 1987 (c. 26, SIF 61), ss. 335, 339(2), Sch. 23 para. 30(4)(a) (which by s. 340(3) is expressed to extend to Scotland only) it is provided that in para. 7(2) in the definition of “housing association”, for “paragraph (e) of section 10(2) of the Tenants' Rights, Etc. (Scotland) Act 1980” and “11” there are substituted (S.) “section 61(2)(a)(vi) of the Housing (Scotland) Act 1987” and “45” respectively
- F11** Words in Sch. 4 para. 7(2) repealed (17.8.1992) by Housing and Planning Act 1986 (c. 63, SIF 61), s. 24(2), Sch. 5 Pt. II para. 40(3)(b); S.I. 1992/1753, art. 2(2) (with restriction in Sch. para. 5)

Modifications etc. (not altering text)

- C2** Sch. 4 para. 7(1) explained by Housing (Consequential Provisions) Act 1985 (c. 71, SIF 61), s. 5(1), Sch. 3 para. 5(3)
 Sch. 4 para. 7(1) modified (17.8.1992) by S.I. 1992/1709, reg. 2(b)
- C3** In Sch. 4 para. 7(2) for the reference to the Scottish Special Housing Association there is substituted a reference to Scottish Homes by Housing (Scotland) Act 1988 (c. 43, SIF 61), ss. 1, 3(3), Sch. 2 para. 1

Marginal Citations

- M1** 1968 c. 16.
M2 1972 c. 9 (N.I.).
M3 S.I. 1983/1118 (N.I. 15).

- [^{F12}7A(1) The landlord condition shall be treated as having been satisfied in the case of a dwelling-house comprised in a housing co-operative agreement made—
- (a) in England and Wales, by a local housing authority, new town corporation or the Development Board for Rural Wales, or
 - (b) in Scotland, by [^{F13}a local housing authority],
- if the interest of the landlord belonged to the housing co-operative.
- (2) In sub-paragraph (1) “housing co-operative agreement” and “housing co-operative”—
- (a) as regards England and Wales have the same meaning as in section 27B (agreements with housing co-operatives under superseded provisions), and

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- (b) as regards Scotland mean an agreement made under section 5 of the Housing Rents and Subsidies (Scotland) Act 1975 and a housing co-operative within the meaning of that section.]

Textual Amendments

- F12** Sch. 4 para. 7A inserted (17.8.1992) by Housing and Planning Act 1986 (c. 63, SIF 61), s. 24(2), Sch. 5 Pt. II para. 40(4); S.I. 1992/1753, art. 2(2) (subject to a restriction in Sch. para. 5)
- F13** In Sch. 4 para. 7A(1)(b) for the reference to “an islands or district council” there is substituted a reference to “a local housing authority” by 1994 c. 39, s. 180(1), Sch. 13 para. 142(3)(b) (which by s. 184(4) extends to Scotland only); S.I. 1996/323, art. 4(1)(c)

VALID FROM 01/12/2008

- [^{F14}7B The landlord condition shall be treated as having been satisfied in the case of a dwelling-house let under a tenancy falling within section 80(2A) to (2E) at any time if, at that time, the interest of the landlord belonged to—
- (a) the Homes and Communities Agency, or
 - (b) the Welsh Ministers.]

Textual Amendments

- F14** Sch. 4 para. 7B inserted (1.12.2008) by The Housing and Regeneration Act 2008 (Consequential Provisions) Order 2008 (S.I. 2008/3002), art. 4, Sch. 1 para. 31(3) (with Sch. 2); S.I. 2008/3068, arts. 1(2), 2(1)(b) (with arts. 6-13)

- 8 (1) The landlord condition shall also be treated as having been satisfied, in such circumstances as may be prescribed for the purposes of this paragraph by order of the Secretary of State, if the interest of the landlord belonged to a person who is so prescribed.
- (2) An order under this paragraph—
- (a) may make different provision with respect to different cases or descriptions of case, including different provision for different areas, and
 - (b) shall be made by statutory instrument which shall be subject to annulment in pursuance of a resolution of either House of Parliament.

The tenant condition

- 9 The tenant condition is that the tenant was an individual and occupied the dwelling-house as his only or principal home; or, where the tenancy was a joint tenancy, that each of the joint tenants was an individual and at least one of them occupied the dwelling-house as his only or principal home.

VALID FROM 30/06/2004

- [^{F15}9A The tenant condition is not met during any period when a tenancy is a demoted tenancy by virtue of section 20B of the Housing Act 1988 or section 143A of the Housing Act 1996.]

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Textual Amendments

F15 Sch. 4 para. 9A inserted (30.6.2004 for E. and 30.4.2005 for W.) by Anti-social Behaviour Act 2003 (c.38), ss. 14, 93(1), **Sch. 1 para. 2(5)**; S.I. 2004/1502, **art. 2** (subject to Sch.); S.I. 2005/1225, **art. 2(b)**

Application to certain housing association tenancies

- 10 For the purpose of determining whether at any time a tenant of a housing association was a public sector tenant and his tenancy a public sector tenancy, the association shall be deemed to have been registered at that time, under [^{F16}Part I of the Housing Act 1996 or Part I of the Housing Associations Act 1985 or under] the corresponding Northern Ireland legislation, if it was so registered at any later time.

Textual Amendments

F16 Words in Sch. 4 para. 10 substituted (1.10.1996) by S.I. 1996/2325, art. 5(1), **Sch. 2 para. 14(32)**

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