

*Status: Point in time view as at 01/10/1997.*

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## SCHEDULES

### SCHEDULE 1

Section 79.

#### TENANCIES WHICH ARE NOT SECURE TENANCIES

##### *Long leases*

1 A tenancy is not a secure tenancy if it is a long tenancy.

##### *[<sup>F1</sup> Introductory tenancies]*

###### Textual Amendments

**F1** Sch. 1 para. 1A and cross-heading inserted (4.2.1997) by 1996 c. 52, s. 141(1), Sch. 14 para. 5; S.I. 1997/66, art. 2 (subject to savings in Sch.)

[<sup>F2</sup>1A A tenancy is not a secure tenancy if it is an introductory tenancy or a tenancy which has ceased to be an introductory tenancy—

- (a) by virtue of section 133(3) of the Housing Act 1996 (disposal on death to non-qualifying person), or
- (b) by virtue of the tenant, or in the case of a joint tenancy every tenant, ceasing to occupy the dwelling-house as his only or principal home.]

###### Textual Amendments

**F2** Sch. 1 para. 1A and cross-heading inserted (4.2.1997) by 1996 c. 52, s. 141(1), Sch. 14 para. 5; S.I. 1997/66, art. 2 (subject to savings in Sch.)

VALID FROM 30/06/2004

[<sup>F3</sup>1B A tenancy is not a secure tenancy if it is a demoted tenancy within the meaning of section 143A of the Housing Act 1996.]

###### Textual Amendments

**F3** Sch. 1 para. 1B inserted (30.6.2004 for E. and 30.9.2004 for specified purposes for W. and 30.4.2005 otherwise for W.) by Anti-social Behaviour Act 2003 (c. 38), ss. 14, 93(1)(2), Sch. 1 para. 2(4); S.I. 2004/1502, art. 2(a)(iii) (subject to Sch.); S.I. 2004/2557, art. 2(a)(ii) (subject to Sch.); S.I. 2005/1225, art. 2(b)

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*Premises occupied in connection with employment*

- 2 (1) [<sup>F4</sup>Subject to sub-paragraph (4B)] a tenancy is not a secure tenancy if the tenant is an employee of the landlord or of—
- a local authority,
  - a new town corporation,
  - [<sup>F5</sup>a housing action trust]
  - an urban development corporation,
  - the Development Board for Rural Wales, or
  - the governors of an aided school,
- and his contract of employment requires him to occupy the dwelling-house for the better performance of his duties.
- (2) [<sup>F4</sup>Subject to sub-paragraph (4B)] a tenancy is not a secure tenancy if the tenant is a member of a police force and the dwelling-house is provided for him free of rent and rates in pursuance of regulations made under [<sup>F6</sup>section 50 of the Police Act 1996] (general regulations as to government, administration and conditions of service of police forces).
- (3) [<sup>F4</sup>Subject to sub-paragraph (4B)] a tenancy is not a secure tenancy if the tenant is an employee of a fire authority (within the meaning of the Fire Services Acts 1947 to 1959) and—
- (a) his contract of employment requires him to live in close proximity to a particular fire station, and
  - (b) the dwelling-house was let to him by the authority in consequence of that requirement.
- (4) [<sup>F7</sup>Subject to sub-paragraph (4A) and (4B)] a tenancy is not a secure tenancy if—
- (a) within the period of three years immediately preceding the grant the conditions mentioned in sub-paragraph (1), (2) or (3) have been satisfied with respect to a tenancy of the dwelling-house, and
  - (b) before the grant the landlord notified the tenant in writing of the circumstances in which this exception applies and that in its opinion the proposed tenancy would fall within this exception.
- <sup>F8</sup> . . .
- [<sup>F9</sup>(4A) Except where the landlord is a local housing authority, a tenancy under sub-paragraph (4) shall become a secure tenancy when the periods during which the conditions mentioned in sub-paragraph (1), (2) or (3) are not satisfied with respect to the tenancy amount in aggregate to more than three years.
- (4B) Where the landlord is a local housing authority, a tenancy under sub-paragraph (1), (2), (3) or (4) shall become a secure tenancy if the authority notify the tenant that the tenancy is to be regarded as a secure tenancy.]
- (5) In this paragraph “contract of employment” means a contract of service or apprenticeship, whether express or implied and (if express) whether oral or in writing.

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#### Textual Amendments

- F4** Words in **Sch. 1 para. 2(1)–(3)** inserted (1.4.1997) by 1996 c. 52, s. 173, **Sch. 16 para. 2(2)**; S.I. 1996/2959, **art. 3** (subject to transitional provision in **Sch. para. 1**)
- F5** Entry inserted by **Housing Act 1988 (c. 50, SIF 61), s. 83(6)(a)**
- F6** Words in **Sch. 1 para. 2(2)** substituted (22.8.1996) by 1996 c. 16, ss. 103(1), 104(1), **Sch. 7 Pt. II para. 40**
- F7** Words in **Sch. 1 para. 2(4)** inserted (1.4.1997) by 1996 c. 52, s. 173, **Sch. 16 para. 2(3)(a)**; S.I. 1996/2959, **art. 3** (subject to transitional provision in **Sch. para. 1**)
- F8** Words in **Sch. 1 para. 2(4)** repealed (1.4.1997) by 1996 c. 52, ss. 173, 227, **Sch. 16 para. 2(3)(b)**, **Sch. 19 Pt. VII**; S.I. 1996/2959, **art. 3** (subject to transitional provision in **Sch. para. 1**)
- F9** **Sch. 1 para. 2(4A)(4B)** inserted (1.4.1997) by 1996 c. 52, s. 173, **Sch. 16 para. 2(4)**; S.I. 1996/2959, **art. 3** (subject to transitional provision in **Sch. para. 1**)

#### *Land acquired for development*

- 3 (1) A tenancy is not a secure tenancy if the dwelling-house is on land which has been acquired for development and the dwelling-house is used by the landlord, pending development of the land, as temporary housing accommodation.
- (2) In this paragraph “development” has the meaning given by [<sup>F10</sup>section 55 of the Town and Country Planning Act 1990] (general definition of development for purposes of that Act).

#### Textual Amendments

- F10** Words substituted by **Planning (Consequential Provisions) Act 1990 (c. 11, SIF 123:1, 2), s. 4, Sch. 2 para. 71(6)**

#### *[<sup>F11</sup>Accommodation for homeless persons]*

#### Textual Amendments

- F11** **Sch. 1 para. 4** and cross-heading substituted (20.1.1997) by 1996 c. 52, s. 216(3), **Sch. 17 para. 3**; S.I. 1996/2959, **art. 2** (subject to transitional provision in **Sch. para. 2**)

- [<sup>F124</sup> A tenancy granted in pursuance of any function under Part VII of the Housing Act 1996 (homelessness) is not a secure tenancy unless the local housing authority concerned have notified the tenant that the tenancy is to be regarded as a secure tenancy.]

#### Textual Amendments

- F12** **Sch. 1 para. 4** and cross-heading substituted (20.1.1997) by 1996 c. 52, s. 216(3), **Sch. 17 para. 3**; S.I. 1996/2959, **art. 2** (subject to transitional provision in **Sch. para. 2**)

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VALID FROM 01/01/2009

### *<sup>F13</sup>Family intervention tenancies*

#### **Textual Amendments**

**F13** Sch. 1 para. 4ZA and preceding cross-heading inserted (1.1.2009 for E. and otherwise prosp.) by [Housing and Regeneration Act 2008 \(c. 17\)](#), **ss. 297(1), 325**; [S.I. 2008/3068](#), **art. 4(11)** (with arts. 6-13)

- 4ZA (1) A tenancy is not a secure tenancy if it is a family intervention tenancy.
- (2) But a tenancy mentioned in sub-paragraph (1) becomes a secure tenancy if the landlord notifies the tenant that it is to be regarded as a secure tenancy.
- (3) In this paragraph “a family intervention tenancy” means, subject to sub-paragraph (4), a tenancy granted by a local housing authority in respect of a dwelling-house—
- (a) to a person (“the new tenant”) against whom a possession order under section 84 in respect of another dwelling-house—
    - (i) has been made, in relation to a secure tenancy, on ground 2 or 2A of Part 1 of Schedule 2;
    - (ii) could, in the opinion of the authority, have been so made in relation to such a tenancy; or
    - (iii) could, in the opinion of the authority, have been so made if the person had had such a tenancy; and
  - (b) for the purposes of the provision of behaviour support services.
- (4) A tenancy is not a family intervention tenancy for the purposes of this paragraph if the local housing authority has failed to serve a notice under sub-paragraph (5) on the new tenant before the new tenant entered into the tenancy.
- (5) A notice under this sub-paragraph is a notice stating—
- (a) the reasons for offering the tenancy to the new tenant;
  - (b) the dwelling-house in respect of which the tenancy is to be granted;
  - (c) the other main terms of the tenancy (including any requirements on the new tenant in respect of behaviour support services);
  - (d) the security of tenure available under the tenancy and any loss of security of tenure which is likely to result from the new tenant agreeing to enter into the tenancy;
  - (e) that the new tenant is not obliged to enter into the tenancy or (unless otherwise required to do so) to surrender any existing tenancy or possession of a dwelling-house;
  - (f) any likely action by the local housing authority if the new tenant does not enter into the tenancy or surrender any existing tenancy or possession of a dwelling-house.
- (6) The appropriate national authority may by regulations made by statutory instrument amend sub-paragraph (5).

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- (7) A notice under sub-paragraph (5) must contain advice to the new tenant as to how the new tenant may be able to obtain assistance in relation to the notice.
- (8) The appropriate national authority may by regulations made by statutory instrument make provision about the type of advice to be provided in such notices.
- (9) Regulations under this paragraph may contain such transitional, transitory or saving provision as the appropriate national authority considers appropriate.
- (10) A statutory instrument containing (whether alone or with other provision) regulations under this paragraph which amend or repeal any of paragraphs (a) to (f) of sub-paragraph (5) may not be made—
- (a) by the Secretary of State unless a draft of the instrument has been laid before, and approved by a resolution of, each House of Parliament; and
  - (b) by the Welsh Ministers unless a draft of the instrument has been laid before, and approved by a resolution of, the National Assembly for Wales.
- (11) Subject to this, a statutory instrument containing regulations made under this paragraph—
- (a) by the Secretary of State is subject to annulment in pursuance of a resolution of either House of Parliament; and
  - (b) by the Welsh Ministers is subject to annulment in pursuance of a resolution of the National Assembly for Wales.
- (12) In this paragraph—
- “appropriate national authority”—
    - (a) in relation to England, means the Secretary of State; and
    - (b) in relation to Wales, means the Welsh Ministers;
  - “behaviour support agreement” means an agreement in writing about behaviour and the provision of support services made between the new tenant and the local housing authority concerned (or between persons who include those persons);
  - “behaviour support services” means relevant support services to be provided by any person to—
    - (a) the new tenant; or
    - (b) any person who is to reside with the new tenant;
- for the purpose of addressing the kind of behaviour which led to the new tenant falling within sub-paragraph (3)(a);
- “family intervention tenancy” has the meaning given by sub-paragraph (3);
- “the new tenant” has the meaning given by sub-paragraph (3)(a);
- “relevant support services” means support services of a kind identified in a behaviour support agreement and designed to meet such needs of the recipient as are identified in the agreement.]

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VALID FROM 11/11/1999

*[<sup>F14</sup> Accommodation for asylum-seekers]*

**Textual Amendments**

**F14** Sch. 1 para. 4A and cross-heading inserted (11.11.1999) by 1999 c. 33, s. 169(1), Sch. 14 para. 81

[<sup>F15</sup>4A (1) A tenancy is not a secure tenancy if it is granted in order to provide accommodation under Part VI of the Immigration and Asylum Act 1999.

(2) A tenancy mentioned in sub-paragraph (1) becomes a secure tenancy if the landlord notifies the tenant that it is to be regarded as a secure tenancy.]

**Textual Amendments**

**F15** Sch. 1 para. 4A and cross-heading inserted (11.11.1999) by 1999 c. 33, s. 169(1), Sch. 14 para. 81

VALID FROM 15/06/2005

*[<sup>F16</sup> Accommodation for persons with Temporary Protection*

**Textual Amendments**

**F16** Sch. 1 para. 4B and cross-heading inserted (15.6.2005) by The Displaced Persons (Temporary Protection) Regulations (S.I. 2005/1379), reg. 1, {Sch. para. 4}

4B A tenancy is not a secure tenancy if it is granted in order to provide accommodation under the Displaced Persons (Temporary Protection) Regulations 2005.]

*Temporary accommodation for persons taking up employment*

- 5 (1) [<sup>F17</sup>Subject to sub-paragraphs (1A) and (1B), a tenancy is not a secure tenancy] if—
- (a) the person to whom the tenancy was granted was not, immediately before the grant, resident in the district in which the dwelling-house is situated,
  - (b) before the grant of the tenancy, he obtained employment, or an offer of employment, in the district or its surrounding area,
  - (c) the tenancy was granted to him for the purpose of meeting his need for temporary accommodation in the district or its surrounding area in order to work there, and of enabling him to find permanent accommodation there, and
  - (d) the landlord notified him in writing of the circumstances in which this exception applies and that in its opinion the proposed tenancy would fall within this exception;

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F18

[<sup>F19</sup>(1A) Except where the landlord is a local housing authority, a tenancy under sub-paragraph (1) shall become a secure tenancy on the expiry of one year from the grant or on earlier notification by the landlord to the tenant that the tenancy is to be regarded as a secure tenancy.

(1B) Where the landlord is a local housing authority, a tenancy under sub-paragraph (1) shall become a secure tenancy if at any time the authority notify the tenant that the tenancy is to be regarded as a secure tenancy.]

(2) In this paragraph—

“district” means district of a local housing authority; and

“surrounding area”, in relation to a district, means the area consisting of each district that adjoins it

#### Textual Amendments

**F17** Words in [Sch. 1 para. 5\(1\)](#) substituted (1.4.1997) by [1996 c. 52, s. 173, Sch. 16 para. 2\(5\)\(a\)](#); [S.I. 1996/2959, art. 3](#) (subject to transitional provision in [Sch. para. 2](#))

**F18** Words in [Sch. 1 para. 5\(1\)](#) repealed (1.4.1997) by [1996 c. 52, ss. 173, 227, Sch. 16 para. 2\(5\)\(b\), Sch. 19 Pt. VII](#); [S.I. 1996/2959, art. 3](#) (subject to transitional provision in [Sch. para. 2](#))

**F19** [Sch. 1 para. 5\(1A\)\(1B\)](#) inserted (1.4.1997) by [1996 c. 52, s. 173, Sch. 16 para. 2\(6\)](#); [S.I. 1996/2959, art. 3](#) (subject to transitional provision in [Sch. para. 2](#))

#### *Short-term arrangements*

- 6 A tenancy is not a secure tenancy if—
- the dwelling-house has been leased to the landlord with vacant possession for use as temporary housing accommodation,
  - the terms on which it has been leased include provision for the lessor to obtain vacant possession from the landlord on the expiry of a specified period or when required by the lessor,
  - the lessor is not a body which is capable of granting secure tenancies, and
  - the landlord has no interest in the dwelling-house other than under the lease in question or as a mortgagee.

#### *Temporary accommodation during works*

- 7 A tenancy is not a secure tenancy if—
- the dwelling-house has been made available for occupation by the tenant (or a predecessor in title of his) while works are carried out on the dwelling-house which he previously occupied as his home, and
  - the tenant or predecessor was not a secure tenant of that other dwelling-house at the time when he ceased to occupy it as his home.

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*[<sup>F20</sup> Agricultural holdings etc.]*

**Textual Amendments**

**F20** Sch. 1 para. 8 and cross-heading substituted (1.9.1995) by 1995 c. 8, ss. 40, 41(2), Sch. para. 30

- [<sup>F21</sup>g (1) A tenancy is not a secure tenancy if—
- (a) the dwelling-house is comprised in an agricultural holding and is occupied by the person responsible for the control (whether as tenant or as servant or agent of the tenant) of the farming of the holding, or
  - (b) the dwelling-house is comprised in the holding held under a farm business tenancy and is occupied by the person responsible for the control (whether as tenant or as servant or agent of the tenant) of the management of the holding.
- (2) In sub-paragraph (1) above—
- “agricultural holding” means any agricultural holding within the meaning of the Agricultural Holdings Act 1986 held under a tenancy in relation to which that Act applies, and
- “farm business tenancy”, and “holding” in relation to such a tenancy, have the same meaning as in the Agricultural Tenancies Act 1995.]

**Textual Amendments**

**F21** Sch. 1 para. 8 and cross-heading substituted (1.9.1995) by 1995 c. 8, ss. 40, 41(2), Sch. para. 30

*Licensed premises*

- 9 A tenancy is not a secure tenancy if the dwelling-house consists of or includes premises licensed for the sale of intoxicating liquor for consumption on the premises.

*Student lettings*

- 10 (1) [<sup>F22</sup>Subject to sub-paragraphs (2A) and (2B), a tenancy of a dwelling-house is not a secure tenancy] if—
- (a) it is granted for the purpose of enabling the tenant to attend a designated course at an educational establishment, and
  - (b) before the grant of the tenancy the landlord notified him in writing of the circumstances in which this exception applies and that in its opinion the proposed tenancy would fall within this exception;
- <sup>F23</sup> . . .
- (2) A landlord’s notice under sub-paragraph (1)(b) shall specify the educational establishment which the person concerned proposes to attend.

- [<sup>F24</sup>(2A) Except where the landlord is a local housing authority, a tenancy under sub-paragraph (1) shall become a secure tenancy on the expiry of the period specified in sub-paragraph (3) or on earlier notification by the landlord to the tenant that the tenancy is to be regarded as a secure tenancy.



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- (2B) Where the landlord is a local housing authority, a tenancy under sub-paragraph (1) shall become a secure tenancy if at any time the authority notify the tenant that the tenancy is to be regarded as a secure tenancy.]
- (3) The period referred to in [<sup>F25</sup>sub-paragraph (2A)] is—
- (a) in a case where the tenant attends a designated course at the educational establishment specified in the landlord’s notice, the period ending six months after the tenant ceases to attend that (or any other) designated course at that establishment;
- (b) in any other case, the period ending six months after the grant of the tenancy.
- (4) In this paragraph—
- “designated course” means a course of any kind designated by regulations made by the Secretary of State for the purposes of this paragraph;
- “educational establishment” means a university or [<sup>F26</sup>institution which provides higher education or further education (or both); and for the purposes of this definition “higher education” and “further education” have the same meaning as in [<sup>F27</sup>the Education Act 1996]].
- (5) Regulations under sub-paragraph (4) shall be made by statutory instrument and may make different provision with respect to different cases or descriptions of case, including different provision for different areas.

#### Textual Amendments

- F22** Words in Sch. 1 para. 10(1) substituted (1.4.1997) by 1996 c. 52, s. 173, Sch. 16 para. 2(7)(a); S.I. 1996/2959, art. 3
- F23** Words in Sch. 1 para. 10(1) repealed (1.4.1997) by 1996 c. 52, ss. 173, 227, Sch. 16 para. 2(7)(b), Sch. 19 Pt. VII; S.I. 1996/2959, art. 3
- F24** Sch. 1 para. 10(2A)(2B) inserted (1.4.1997) by 1996 c. 52, s. 173, Sch. 16 para. 2(8); S.I. 1996/2959, art. 3
- F25** Words in Sch. 1 para. 10(3) substituted (1.4.1997) by 1996 c. 52, s. 173, Sch. 16 para. 2(9); S.I. 1996/2959, art. 3
- F26** Words substituted by Education Reform Act 1988 (c. 40, SIF 41:1), ss. 231(7), 235(6), 237(1), Sch. 12 Pt. III para. 95
- F27** Words in the definition of “educational establishment” in Sch. 1 para. 10(4) substituted (1.11.1996) by 1996 c. 56, ss. 582(1), 583(2), Sch. 37 Pt. I para. 62 (with ss. 1(4), 561, 562, Sch. 39)

#### 1954 Act tenancies

- 11 A tenancy is not a secure tenancy if it is one to which Part II of the <sup>M1</sup>Landlord and Tenant Act 1954 applies (tenancies of premises occupied for business purposes).

#### Marginal Citations

- M1** 1954 c. 56.

#### Almshouses

- [<sup>F28</sup>12 A licence to occupy a dwelling-house is not a secure tenancy if—

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- (a) the dwelling-house is an almshouse, and
- (b) the licence was granted by or on behalf of a charity which—
  - (i) is authorised under its trusts to maintain the dwelling-house as an almshouse, and
  - (ii) has no power under its trusts to grant a tenancy of the dwelling-house;

and in this paragraph “almshouse” means any premises maintained as an almshouse, whether they are called an almshouse or not; and “trusts”, in relation to a charity, means the provisions establishing it as a charity and regulating its purposes and administration, whether those provisions take effect by way of trust or not.]

**Textual Amendments**

**F28** Sch. 1 para. 12 substituted (1.9.1992) by Charities Act 1992 (c. 41), s. 78(1), Sch. 6 para. 12; S.I. 1992/1900, art. 2, Sch. 1

SCHEDULE 2

Section 84.

GROUNDS FOR POSSESSION OF DWELLING-HOUSES LET UNDER SECURE TENANCIES

PART I

GROUNDS ON WHICH COURT MAY ORDER POSSESSION IF IT CONSIDERS IT REASONABLE

*Ground 1*

Rent lawfully due from the tenant has not been paid or an obligation of the tenancy has been broken or not performed.

*[<sup>F29</sup> Ground 2]*

**Textual Amendments**

**F29** Sch. 2 Ground 2 substituted (4.2.1997) by 1996 c. 52, s. 144; S.I. 1997/66, art. 2 (with Sch.)

<sup>F30</sup>The tenant or a person residing in or visiting the dwelling-house—

- (a) has been guilty of conduct causing or likely to cause a nuisance or annoyance to a person residing, visiting or otherwise engaging in a lawful activity in the locality, or
- (b) has been convicted of—
  - (i) using the dwelling-house or allowing it to be used for immoral or illegal purposes, or
  - (ii) an arrestable offence committed in, or in the locality of, the dwelling-house.]

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#### Textual Amendments

**F30** Sch. 2 Ground 2 substituted (4.2.1997) by 1996 c. 52, s. 144; S.I. 1997/66, art. 2 (subject to savings in Sch.)

#### [<sup>F31</sup> Ground 2A]

#### Textual Amendments

**F31** Sch. 2 Ground 2A and inserted (4.2.1997) by 1996 c. 52, s. 145; S.I. 1997/66, art. 2 (subject to savings in Sch.)

[<sup>F32</sup>The dwelling-house was occupied (whether alone or with others) by a married couple or a couple living together as husband and wife and—

- (a) one or both of the partners is a tenant of the dwelling-house,
- (b) one partner has left because of violence or threats of violence by the other towards—
  - (i) that partner, or
  - (ii) a member of the family of that partner who was residing with that partner immediately before the partner left, and
- (c) the court is satisfied that the partner who has left is unlikely to return.]

#### Textual Amendments

**F32** Sch. 2 Ground 2A and cross-heading inserted (4.2.1997) by 1996 c. 52, s. 145; S.I. 1997/66, art. 2 (subject to savings in Sch.)

#### Ground 3

The condition of the dwelling-house or of any of the common parts has deteriorated owing to acts of waste by, or the neglect or default of, the tenant or a person residing in the dwelling-house and, in the case of an act of waste by, or the neglect or default of, a person lodging with the tenant or a sub-tenant of his, the tenant has not taken such steps as he ought reasonably to have taken for the removal of the lodger or sub-tenant.

#### Ground 4

The condition of furniture provided by the landlord for use under the tenancy, or for use in the common parts, has deteriorated owing to ill-treatment by the tenant or a person residing in the dwelling-house and, in the case of ill-treatment by a person lodging with the tenant or a sub-tenant of his, the tenant has not taken such steps as he ought reasonably to have taken for the removal of the lodger or sub-tenant.

#### Ground 5

The tenant is the person, or one of the persons, to whom the tenancy was granted and the landlord was induced to grant the tenancy by a false statement made knowingly or recklessly [<sup>F33</sup>by—

- (a) the tenant, or
- (b) a person acting at the tenant's instigation]

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**Textual Amendments**

**F33** Sch. 2 Ground 5(a)(b) and word “by” immediately preceding it substituted (4.2.1997) for words by 1996 c. 52, s. 146; S.I. 1997/66, art. 2 (subject to savings in Sch.)

**Textual Amendments**

**F33** Sch. 2 Ground 5(a)(b) and word “by” immediately preceding it substituted (4.2.1997) for words by 1996 c. 52, s. 146; S.I. 1997/66, art. 2 (subject to savings in Sch.)

*Ground 6*

The tenancy was assigned to the tenant, or to a predecessor in title of his who is a member of his family and is residing in the dwelling-house, by an assignment made by virtue of section 92 (assignments by way of exchange) and a premium was paid either in connection with that assignment or the assignment which the tenant or predecessor himself made by virtue of that section.

In this paragraph “premium” means any fine or other like sum and any other pecuniary consideration in addition to rent

*Ground 7*

The dwelling-house forms part of, or is within the curtilage of, a building which, or so much of it as is held by the landlord, is held mainly for purposes other than housing purposes and consists mainly of accommodation other than housing accommodation, and—

- (a) the dwelling-house was let to the tenant or a predecessor in title of his in consequence of the tenant or predecessor being in the employment of the landlord, or of—
- a local authority,
  - a new town corporation,
  - [<sup>F34</sup>a housing action trust]
  - an urban development corporation,
  - the Development Board for Rural Wales, or
  - the governors of an aided school,

and

- (b) the tenant or a person residing in the dwelling-house has been guilty of conduct such that, having regard to the purpose for which the building is used, it would not be right for him to continue in occupation of the dwelling-house.

**Textual Amendments**

**F34** Entry inserted by Housing Act 1988 (c. 50, SIF 61), s. 83(6)(b)

*Ground 8*

The dwelling-house was made available for occupation by the tenant (or a predecessor in title of his) while works were carried out on the dwelling-house which he previously occupied as his only or principal home and—

*Status: Point in time view as at 01/10/1997.*

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- (a) the tenant (or predecessor) was a secure tenant of the other dwelling-house at the time when he ceased to occupy it as his home,
- (b) the tenant (or predecessor) accepted the tenancy of the dwelling-house of which possession is sought on the understanding that he would give up occupation when, on completion of the works, the other dwelling-house was again available for occupation by him under a secure tenancy, and
- (c) the works have been completed and the other dwelling-house is so available.

## PART II

### GROUND ON WHICH THE COURT MAY ORDER POSSESSION IF SUITABLE ALTERNATIVE ACCOMMODATION IS AVAILABLE

#### *Ground 9*

The dwelling-house is overcrowded, within the meaning of Part X, in such circumstances as to render the occupier guilty of an offence.

#### *Ground 10*

The landlord intends, within a reasonable time of obtaining possession of the dwelling-house—

- (a) to demolish or reconstruct the building or part of the building comprising the dwelling-house, or
- (b) to carry out work on that building or on land let together with, and thus treated as part of, the dwelling-house,

and cannot reasonably do so without obtaining possession of the dwelling-house.

#### *[<sup>F35</sup> Ground 10A]*

#### **Textual Amendments**

**F35** Sch. 2 Pt. II Ground 10A inserted by [Housing and Planning Act 1986 \(c. 63, SIF 61\)](#), s. 9(1)

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

**C1** Sch. 2 Pt. II Ground 10A modified (1.12.2008) by [The Transfer of Housing Corporation Functions \(Modifications and Transitional Provisions\) Order 2008 \(S.I. 2008/2839\)](#), art. 3, **Sch. para. 2(1)** (with art. 6); S.I. 2008/3068, arts. 1(2), **2(1)(b)** (with arts. 6-13)

The dwelling-house is in an area which is the subject of a redevelopment scheme approved by the Secretary of State or the [<sup>F36</sup>Corporation] in accordance with Part V of this Schedule and the landlord intends within a reasonable time of obtaining possession to dispose of the dwelling-house in accordance with the scheme.

*or*

Part of the dwelling-house is in such an area and the landlord intends within a reasonable time of obtaining possession to dispose of that part in accordance with the scheme and for that purpose reasonably requires possession of the dwelling-house.

*Status: Point in time view as at 01/10/1997.*

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**Textual Amendments**

**F36** Words substituted by [Housing Act 1988 \(c. 50, SIF 61\)](#), s. 140(1), [Sch. 17 Pt. II para. 106](#)

*Ground 11*

The landlord is a charity and the tenant's continued occupation of the dwelling-house would conflict with the objects of the charity.

**PART III**

GROUNDS ON WHICH THE COURT MAY ORDER POSSESSION IF IT CONSIDERS IT  
 REASONABLE AND SUITABLE ALTERNATIVE ACCOMMODATION IS AVAILABLE

*Ground 12*

The dwelling-house forms part of, or is within the curtilage of, a building which, or so much of it as is held by the landlord, is held mainly for purposes other than housing purposes and consists mainly of accommodation other than housing accommodation, or is situated in a cemetery, and—

- (a) the dwelling-house was let to the tenant or a predecessor in title of his in consequence of the tenant or predecessor being in the employment of the landlord or of—
- a local authority,
  - a new town corporation,
  - [<sup>F37</sup>a housing action trust]
  - an urban development corporation,
  - the Development Board for Rural Wales, or
  - the governors of an aided school,
- and that employment has ceased, and
- (b) the landlord reasonably requires the dwelling-house for occupation as a residence for some person either engaged in the employment of the landlord, or of such a body, or with whom a contract for such employment has been entered into conditional on housing being provided.

**Textual Amendments**

**F37** Entry inserted by [Housing Act 1988 \(c. 50, SIF 61\)](#), s. [83\(6\)\(b\)](#)

*Ground 13*

The dwelling-house has features which are substantially different from those of ordinary dwelling-houses and which are designed to make it suitable for occupation by a physically disabled person who requires accommodation of a kind provided by the dwelling-house and—

- (a) there is no longer such a person residing in the dwelling-house, and
- (b) the landlord requires it for occupation (whether alone or with members of his family) by such a person.

*Status: Point in time view as at 01/10/1997.*

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#### Ground 14

The landlord is a housing association or housing trust which lets dwelling-houses only for occupation (whether alone or with others) by persons whose circumstances (other than merely financial circumstances) make it especially difficult for them to satisfy their need for housing, and—

- (a) either there is no longer such a person residing in the dwelling-house or the tenant has received from a local housing authority an offer of accommodation in premises which are to be let as a separate dwelling under a secure tenancy, and
- (b) the landlord requires the dwelling-house for occupation (whether alone or with members of his family) by such a person.

#### Ground 15

The dwelling-house is one of a group of dwelling-houses which it is the practice of the landlord to let for occupation by persons with special needs and—

- (a) a social service or special facility is provided in close proximity to the group of dwelling-houses in order to assist persons with those special needs,
- (b) there is no longer a person with those special needs residing in the dwelling-house, and
- (c) the landlord requires the dwelling-house for occupation (whether alone or with members of his family) by a person who has those special needs.

#### Ground 16

The accommodation afforded by the dwelling-house is more extensive than is reasonably required by the tenant and—

- (a) the tenancy vested in the tenant by virtue of section 89 (succession to periodic tenancy), the tenant being qualified to succeed by virtue of section 87(b) (members of family other than spouse), and
- (b) notice of the proceedings for possession was served under section 83 more than six months but less than twelve months after the date of the previous tenant's death.

The matters to be taken into account by the court in determining whether it is reasonable to make an order on this ground include—

- (a) the age of the tenant,
- (b) the period during which the tenant has occupied the dwelling-house as his only or principal home, and
- (c) any financial or other support given by the tenant to the previous tenant.

### PART IV

#### SUITABILITY OF ACCOMMODATION

1 For the purposes of section 84(2)(b) and (c) (case in which court is not to make an order for possession unless satisfied that suitable accommodation will be available) accommodation is suitable if it consists of premises—

- (a) which are to be let as a separate dwelling under a secure tenancy, or
- (b) which are to be let as a separate dwelling under a protected tenancy, not being a tenancy under which the landlord might recover possession under one of the Cases in Part II of Schedule 15 to the <sup>M2</sup>Rent Act 1977 (cases where court must order possession), [<sup>F38</sup>or

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- (c) which are to be let as a separate dwelling under an assured tenancy which is neither an assured shorthold tenancy, within the meaning of Part I of the Housing Act 1988, nor a tenancy under which the landlord might recover possession under any of Grounds 1 to 5 in Schedule 2 to that Act]
- and, in the opinion of the court, the accommodation is reasonably suitable to the needs of the tenant and his family.

#### Textual Amendments

**F38** Word “or” and Sch. 2 Pt. IV para. 1(c) added by [Housing Act 1988 \(c. 50, SIF 61\)](#), s. 140(1), [Sch. 17 Pt. I para. 65](#)

#### Marginal Citations

**M2** [1977 c. 42.](#)

- 2 In determining whether the accommodation is reasonably suitable to the needs of the tenant and his family, regard shall be had to—
- (a) the nature of the accommodation which it is the practice of the landlord to allocate to persons with similar needs;
  - (b) the distance of the accommodation available from the place of work or education of the tenant and of any members of his family;
  - (c) its distance from the home of any member of the tenant’s family if proximity to it is essential to that member’s or the tenant’s well-being;
  - (d) the needs (as regards extent of accommodation) and means of the tenant and his family;
  - (e) the terms on which the accommodation is available and the terms of the secure tenancy;
  - (f) if furniture was provided by the landlord for use under the secure tenancy, whether furniture is to be provided for use in the other accommodation, and if so the nature of the furniture to be provided.
- 3 Where possession of a dwelling-house is sought on ground 9 (overcrowding such as to render occupier guilty of offence), other accommodation may be reasonably suitable to the needs of the tenant and his family notwithstanding that the permitted number of persons for that accommodation, as defined in section 326(3) (overcrowding: the space standard), is less than the number of persons living in the dwelling-house of which possession is sought.
- 4
- (1) A certificate of the appropriate local housing authority that they will provide suitable accommodation for the tenant by a date specified in the certificate is conclusive evidence that suitable accommodation will be available for him by that date.
  - (2) The appropriate local housing authority is the authority for the district in which the dwelling-house of which possession is sought is situated.
  - (3) This paragraph does not apply where the landlord is a local housing authority.



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## <sup>F39</sup>PART V

### APPROVAL OF REDEVELOPMENT SCHEMES FOR PURPOSES OF GROUND 10A

#### Textual Amendments

**F39** Sch. 2 Pt. 5 inserted by [Housing and Planning Act 1986 \(c. 63, SIF 61\), s. 9\(2\)](#)

- 1 (1) The Secretary of State may, on the application of the landlord, approve for the purposes of ground 10A in Part II of this Schedule a scheme for the disposal and redevelopment of an area of land consisting of or including the whole or part of one or more dwelling-houses.
- (2) For this purpose—
  - (a) “disposal” means a disposal of any interest in the land (including the grant of an option), and
  - (b) “redevelopment” means the demolition or reconstruction of buildings or the carrying out of other works to buildings or land;and it is immaterial whether the disposal is to precede or follow the redevelopment.
- (3) The Secretary of State may on the application of the landlord approve a variation of a scheme previously approved by him and may, in particular, approve a variation adding land to the area subject to the scheme.
- 2 (1) Where a landlord proposes to apply to the Secretary of State for the approval of a scheme or variation it shall serve a notice in writing on any secure tenant of a dwelling-house affected by the proposal stating—
  - (a) the main features of the proposed scheme or, as the case may be, the scheme as proposed to be varied,
  - (b) that the landlord proposes to apply to the Secretary of State for approval of the scheme or variation, and
  - (c) the effect of such approval, by virtue of section 84 and ground 10A in Part II of this Schedule, in relation to proceedings for possession of the dwelling-house,and informing the tenant that he may, within such period as the landlord may allow (which shall be at least 28 days from service of the notice), make representations to the landlord about the proposal.
- (2) The landlord shall not apply to the Secretary of State until it has considered any representations made to it within that period.
- (3) In the case of a landlord to which section 105 applies (consultation on matters of housing management) the provisions of this paragraph apply in place of the provisions of that section in relation to the approval or variation of a redevelopment scheme.
- 3 (1) In considering whether to give his approval to a scheme or variation the Secretary of State shall take into account, in particular—
  - (a) the effect of the scheme on the extent and character of housing accommodation in the neighbourhood,
  - (b) over what period of time it is proposed that the disposal and redevelopment will take place in accordance with the scheme, and

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- (c) to what extent the scheme includes provision for housing provided under the scheme to be sold or let to existing tenants or persons nominated by the landlord;
- and he shall take into account any representations made to him and, so far as they are brought to his notice, any representations made to the landlord.
- (2) The landlord shall give to the Secretary of State such information as to the representations made to it, and other relevant matters, as the Secretary of State may require.
- 4 The Secretary of State shall not approve a scheme or variation so as to include in the area subject to the scheme—
- (a) part only of one or more dwelling-houses, or
- (b) one or more dwelling-houses not themselves affected by the works involved in redevelopment but which are proposed to be disposed of along with other land which is so affected,
- unless he is satisfied that the inclusion is justified in the circumstances.
- 5 (1) Approval may be given subject to conditions and may be expressed to expire after a specified period.
- (2) The Secretary of State, on the application of the landlord or otherwise, may vary an approval so as to—
- (a) add, remove or vary conditions to which the approval is subject; or
- (b) extend or restrict the period after which the approval is to expire.
- (3) Where approval is given subject to conditions, the landlord may serve a notice under section 83 (notice of proceedings for possession) specifying ground 10A notwithstanding that the conditions are not yet fulfilled but the court shall not make an order for possession on that ground unless satisfied that they are or will be fulfilled.
- 6 Where the landlord is a [<sup>F40</sup>registered social landlord], the [<sup>F41</sup>Corporation], and not the Secretary of State, has the functions conferred by this Part of this Schedule.

#### Textual Amendments

**F40** Words in Sch. 2 Pt. V para. 6 substituted (1.10.1996) by S.I. 1996/2325, art. 5(1), Sch. 2 para. 14(31)

**F41** Word substituted by Housing Act 1988 (c. 50, SIF 61), s. 140(1), Sch. 17 Pt. II para. 106

- 7 In this Part of this Schedule references to the landlord of a dwelling-house include any authority or body within section 80 (the landlord condition for secure tenancies) having an interest of any description in the dwelling-house.]

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## SCHEDULE 3

Section 92.

### GROUND FOR WITHHOLDING CONSENT TO ASSIGNMENT BY WAY OF EXCHANGE

#### *Ground 1*

The tenant or the proposed assignee is obliged to give up possession of the dwelling-house of which he is the secure tenant in pursuance of an order of the court, or will be so obliged at a date specified in such an order.

#### *Ground 2*

Proceedings have been begun for possession of the dwelling-house of which the tenant or the proposed assignee is the secure tenant on one or more of grounds 1 to 6 in Part I of Schedule 2 (grounds on which possession may be ordered despite absence of suitable alternative accommodation), or there has been served on the tenant or the proposed assignee a notice under section 83 (notice of proceedings for possession) which specifies one or more of those grounds and is still in force.

VALID FROM 15/06/2005

#### *<sup>F42</sup>Ground 2A*

##### **Textual Amendments**

**F42** Sch. 3 Ground 2A inserted (6.6.2005 for E. and 14.7.2005 for W.) by [Housing Act 2004 \(c. 34\)](#), ss. [191](#), [270\(4\)\(5\)](#); S.I. [2005/1451](#), art. [2\(b\)](#); S.I. [2005/1814](#), art. [2\(a\)](#)

Either—

- (a) a relevant order or suspended Ground 2 or 14 possession order is in force, or
- (b) an application is pending before any court for a relevant order, a demotion order or a Ground 2 or 14 possession order to be made,

in respect of the tenant or the proposed assignee or a person who is residing with either of them.

A “relevant order” means—

- an injunction under section 152 of the Housing Act 1996 (injunctions against anti-social behaviour);
- an injunction to which a power of arrest is attached by virtue of section 153 of that Act (other injunctions against anti-social behaviour);
- an injunction under section 153A, 153B or 153D of that Act (injunctions against anti-social behaviour on application of certain social landlords);
- an anti-social behaviour order under section 1 of the Crime and Disorder Act 1998; or
- an injunction to which a power of arrest is attached by virtue of section 91 of the Anti-social Behaviour Act 2003.

A “demotion order” means a demotion order under section 82A of this Act or section 6A of the Housing Act 1988.

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A “Ground 2 or 14 possession order” means an order for possession under Ground 2 in Schedule 2 to this Act or Ground 14 in Schedule 2 to the Housing Act 1988.

Where the tenancy of the tenant or the proposed assignee is a joint tenancy, any reference to that person includes (where the context permits) a reference to any of the joint tenants.]

### *Ground 3*

The accommodation afforded by the dwelling-house is substantially more extensive than is reasonably required by the proposed assignee.

### *Ground 4*

The extent of the accommodation afforded by the dwelling-house is not reasonably suitable to the needs of the proposed assignee and his family.

### *Ground 5*

The dwelling-house—

- (a) forms part of or is within the curtilage of a building which, or so much of it as is held by the landlord, is held mainly for purposes other than housing purposes and consists mainly of accommodation other than housing accommodation, or is situated in a cemetery, and
- (b) was let to the tenant or a predecessor in title of his in consequence of the tenant or predecessor being in the employment of—
  - the landlord,
  - a local authority,
  - a new town corporation,
  - [<sup>F43</sup>a housing action trust]
  - the Development Board for Rural Wales,
  - an urban development corporation, or
  - the governors of an aided school.

#### **Textual Amendments**

**F43** Entry inserted by [Housing Act 1988 \(c. 50, SIF 61\)](#), s. **83(6)(c)**

### *Ground 6*

The landlord is a charity and the proposed assignee’s occupation of the dwelling-house would conflict with the objects of the charity.

### *Ground 7*

The dwelling-house has features which are substantially different from those of ordinary dwelling-houses and which are designed to make it suitable for occupation by a physically disabled person who requires accommodation of the kind provided by the dwelling-house and if the assignment were made there would no longer be such a person residing in the dwelling-house.

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### Ground 8

The landlord is a housing association or housing trust which lets dwelling-houses only for occupation (alone or with others) by persons whose circumstances (other than merely financial circumstances) make it especially difficult for them to satisfy their need for housing and if the assignment were made there would no longer be such a person residing in the dwelling-house.

### Ground 9

The dwelling-house is one of a group of dwelling-houses which it is the practice of the landlord to let for occupation by persons with special needs and a social service or special facility is provided in close proximity to the group of dwelling-houses in order to assist persons with those special needs and if the assignment were made there would no longer be a person with those special needs residing in the dwelling-house.

### <sup>F44</sup> Ground 10

#### Textual Amendments

**F44** Sch. 3 Ground 10 added by [Housing and Planning Act 1986 \(c. 63, SIF 61\)](#), s. 24(1), **Sch. 5 Pt. I para. 7**

The dwelling-house is the subject of a management agreement under which the manager is a housing association of which at least half the members are tenants of dwelling-houses subject to the agreement, at least half the tenants of the dwelling-houses are members of the association and the proposed assignee is not, and is not willing to become, a member of the association.]

### <sup>F45</sup>SCHEDULE 3A

#### CONSULTATION BEFORE DISPOSAL TO PRIVATE SECTOR LANDLORD]

#### Textual Amendments

**F45** Sch. 3A inserted by [Housing and Planning Act 1986 \(c. 63, SIF 61\)](#), s. 6(2)(3), **Sch. 1**

### <sup>F45</sup> Disposals to which this Schedule applies

- 1 (1) This Schedule applies to the disposal by a local authority of an interest in land as a result of which a secure tenant [<sup>F46</sup>or an introductory tenant] of the authority will become the tenant of a private sector landlord.
- (2) For the purposes of this Schedule the grant of an option which if exercised would result in a secure tenant [<sup>F46</sup>or an introductory tenant] of a local authority becoming the tenant of a private sector landlord shall be treated as a disposal of the interest which is the subject of the option.
- (3) Where a disposal of land by a local authority is in part a disposal to which this Schedule applies, the provisions of this Schedule apply to that part as to a separate disposal.

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- (4) In this paragraph “private sector landlord” means a person other than an authority or body within section 80 (the landlord condition for secure tenancies).

#### Textual Amendments

**F46** Words in **Sch. 3A para. 1(1)(2)** inserted (12.2.1997) by **S.I. 1997/74, art. 2, Sch. para. 3(l)(i)**

#### *Application for Secretary of State’s consent*

- 2 (1) The Secretary of State shall not entertain an application for his consent to a disposal to which this Schedule applies unless the authority certify either—
- (a) that the requirements of paragraph 3 as to consultation have been complied with, or
  - (b) that the requirements of that paragraph as to consultation have been complied with except in relation to tenants expected to have vacated the dwelling-house in question before the disposal;
- and the certificate shall be accompanied by a copy of the notices given by the authority in accordance with that paragraph.
- (2) Where the certificate is in the latter form, the Secretary of State shall not determine the application until the authority certify as regards the tenants nor originally consulted—
- (a) that they have vacated the dwelling-house in question, or
  - (b) that the requirements of paragraph 3 as to consultation have been complied with;
- and a certificate under sub-paragraph (b) shall be accompanied by a copy of the notices given by the authority in accordance with paragraph 3.
- (3) References in this Schedule to the Secretary of State’s consent to a disposal are to the consent required by section 32 or 43 (general requirement of consent for disposal of houses or land held for housing purposes).

#### *Requirements as to consultation*

- 3 (1) The requirements as to consultation referred to above are as follows.
- (2) The authority shall serve notice in writing on the tenant informing him of—
- (a) such details of their proposal as the authority consider appropriate, but including the identity of the person to whom the disposal is to be made,
  - (b) the likely consequences of the disposal for the tenant, and
  - (c) the effect of the provisions of this Schedule and <sup>F47</sup>, in the case of a secure tenant,] of sections 171A to 171H (preservation of right to buy on disposal to private sector landlord),
- and informing him that he may, within such reasonable period as may be specified in the notice, make representations to the authority.
- (3) The authority shall consider any representations made to them within that period and shall serve a further written notice on the tenant informing him—
- (a) of any significant changes in their proposal, and

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- (b) that he may within such period as is specified (which must be at least 28 days after the service of the notice) communicate to the Secretary of State his objection to the proposal,  
and informing him of the effect of paragraph 5 (consent to be withheld if majority of tenants are opposed).

#### Textual Amendments

**F47** Words in [Sch. 3A para. 3\(2\)\(c\)](#) inserted (12.2.1997) by [S.I. 1997/74, art. 2, Sch. para. 3\(1\)\(ii\)](#)

#### *Power to require further consultation*

- 4 The Secretary of State may require the authority to carry out such further consultation with their tenants, and to give him such information as to the results of that consultation, as he may direct.

#### *Consent to be withheld if majority of tenants are opposed*

- 5 (1) The Secretary of State shall not give his consent if it appears to him that a majority of the tenants of the dwelling-houses to which the application relates do not wish the disposal to proceed; but this does not affect his general discretion to refuse consent on grounds relating to whether a disposal has the support of the tenants or on any other ground.
- (2) In making his decision the Secretary of State may have regard to any information available to him; and the local authority shall give him such information as to the representations made to them by tenants and others, and other relevant matters, as he may require.

VALID FROM 22/09/2008

#### *[<sup>F48</sup>Guidance*

#### Textual Amendments

**F48** [Sch. 3A para. 5A](#) and preceding cross-heading inserted (22.9.2008) by [Housing and Regeneration Act 2008 \(c. 17\), ss. 294\(4\), 325\(2\)](#) (with [s. 294\(5\)\(6\)](#))

- 5A (1) The appropriate person must give guidance to local authorities about complying with the requirements of paragraph 3 as to consultation.
- (2) The appropriate person must publish guidance given under this paragraph as soon as reasonably practicable after giving it.
- (3) Local authorities must, in complying with the requirements of paragraph 3 as to consultation, have regard to the guidance for the time being in force under this paragraph.
- (4) The appropriate person may revoke guidance given under this paragraph.

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- (5) References in this paragraph to giving guidance include references to giving guidance by varying existing guidance.
- (6) In this paragraph “the appropriate person” means—
- (a) in relation to England, the Secretary of State, and
  - (b) in relation to Wales, the Welsh Ministers.]

*Protection of purchasers*

- 6 The Secretary of State’s consent to a disposal is not invalidated by a failure on his part or that of the local authority to comply with the requirements of this Schedule.]

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).



*Status: Point in time view as at 01/10/1997.*

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- (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.
- (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.

*[<sup>F49</sup> Periods during which right to buy is preserved]*

**Textual Amendments**

- F49** 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.)

- <sup>F50</sup>5A 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.

*Status: Point in time view as at 01/10/1997.*

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#### Textual Amendments

**F50** 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)

**C2** [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.
- (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 <sup>F51</sup>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,
  - <sup>F52</sup>a housing action trust]
  - the Development Board for Rural Wales,
  - an urban development corporation,
  - the <sup>F53</sup>Corporation],
  - a <sup>F54</sup>registered social landlord] which is not a co-operative housing association,
  - .....<sup>F55</sup>,
- 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 <sup>F56</sup>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,

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a development corporation established by an order made or having effect as if made under the <sup>M3</sup>New Towns (Scotland) Act 1968,  
[<sup>F57</sup>the Scottish Special Housing Association]  
[<sup>F57</sup>Scottish Homes],  
a housing association which falls within [<sup>F58</sup>section 61(2)(a)(vi) of the Housing (Scotland) Act 1987] but is not a registered society within the meaning of section [<sup>F58</sup>45] of that Act, and  
<sup>F59</sup> . . .

- (3) The corresponding authorities and bodies in Northern Ireland are—  
a district council within the meaning of the <sup>M4</sup>Local Government Act (Northern Ireland) 1972,  
the Northern Ireland Housing Executive, and  
a registered housing association within the meaning of Chapter II of Part II of the <sup>M5</sup>Housing (Northern Ireland) Order 1983.

#### Textual Amendments

- F51** 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](#))
- F52** Entry inserted by [Housing Act 1988 \(c. 50, SIF 61\) s. 83\(7\)](#)
- F53** Word substituted by [Housing Act 1988 \(c. 50, SIF 61\), s. 140\(1\)](#), [Sch. 17 Pt. II para. 106](#)
- F54** Words in [Sch. 4 para. 7\(1\)](#) substituted (1.10.1996) by S.I. 1996/2325, art. 5(1), [Sch. 2 para. 14\(32\)](#)
- F55** 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
- F56** 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)
- F57** 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](#)
- F58** 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
- F59** 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)

- C3** [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\(b\)](#)
- C4** 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

- M3** 1968 c. 16.  
**M4** 1972 c. 9 (N.I.).  
**M5** S.I. 1983/1118 (N.I. 15).

*Status: Point in time view as at 01/10/1997.*

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- [<sup>F60</sup>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 [<sup>F61</sup>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
  - (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

**F60** 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](#))

**F61** 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

- [<sup>F62</sup>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

**F62** 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.

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### *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

- [<sup>F63</sup>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.]

#### **Textual Amendments**

- F63** 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 [<sup>F64</sup>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**

- F64** Words in Sch. 4 para. 10 substituted (1.10.1996) by S.I. 1996/2325, art. 5(1), Sch. 2 para. 14(32)

## SCHEDULE 5

### EXCEPTIONS TO THE RIGHT TO BUY

#### *Charities*

- 1 The right to buy does not arise if the landlord is a housing trust or a housing association and is a charity.

#### *Certain housing associations*

- 2 The right to buy does not arise if the landlord is a co-operative housing association.
- 3 The right to buy does not arise if the landlord is a housing association which at no time received a grant under—  
any enactment mentioned in paragraph 2 of Schedule 1 to the Housing Associations Act 1985 (grants under enactments superseded by the <sup>M6</sup>Housing Act 1974),

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section 31 of the <sup>M7</sup>Housing Act 1974 (management grants),  
 section 41 of the <sup>M8</sup>Housing Associations Act 1985 (housing association grants),  
 section 54 of that Act (revenue deficit grants),  
 section 55 of that Act (hostel deficit grants), . . . <sup>F65</sup>  
 [<sup>F66</sup>section 58] of that Act (grants by local authorities).  
 [<sup>F67</sup>section 50 of the Housing Act 1988 (housing association grants), <sup>F68</sup>. . .  
 section 51 of that Act (revenue deficit grants).][<sup>F69</sup>“section 18 of the Housing  
 Act 1996 (social housing grants),”; and][<sup>F70</sup>, or]  
 [<sup>F70</sup>section 22 of [<sup>F71</sup>that Act] (grants by local authorities for registered social  
 landlords).]

#### Textual Amendments

- F65** Word repealed by [Housing Act 1988 \(c. 50, SIF 61\)](#), s. 140(2), **Sch. 18**
- F66** Words in Sch. 5 para. 3 substituted (1.10.1996) by [S.I. 1996/2325](#), art. 5(1), **Sch. 2 para. 14(33)(a)**
- F67** Entries in Sch. 5 para. 3 inserted by [Housing Act 1988 \(c. 50, SIF 61\)](#), s. 140(1), **Sch. 17 Pt. I para. 66**
- F68** Word in Sch. 5 para. 3 repealed (1.10.1996) by [S.I. 1996/2325](#), art. 4(1), **Sch. 1 Pt. I** (with art. 4(2)-(4))
- F69** Entry in Sch. 5 para. 3 inserted (1.4.1997) by [S.I. 1997/627](#), art. 2, **Sch. para. 3(4)(a)**
- F70** Entry in Sch. 5 para. 3 and word preceding it inserted (1.10.1996) by [S.I. 1996/2325](#), art. 5(1), **Sch. 2 para. 14(33)(b)**
- F71** Words in Sch. 5 para. 3 substituted (1.4.1997) by [S.I. 1997/627](#), art. 2, **Sch. para. 3(4)(b)**

#### Marginal Citations

- M6** 1974 c. 44.  
**M7** 1974 c. 44.  
**M8** 1985 c. 69.

#### *Landlord with insufficient interest in the property*

- 4 The right to buy does not arise unless the landlord owns the freehold or has an interest sufficient to grant a lease in pursuance of this Part for—
- (a) where the dwelling-house is a house, a term exceeding 21 years, or
  - (b) where the dwelling-house is a flat, a term of not less than 50 years,
- commencing, in either case, with the date on which the tenant’s notice claiming to exercise the right to buy is served.

#### *Dwelling-houses let in connection with employment*

- 5 (1) The right to buy does not arise if the dwelling-house—
- (a) forms part of, or is within the curtilage of, a building which, or so much of it as is held by the landlord, is held mainly for purposes other than housing purposes and consists mainly of accommodation other than housing accommodation, or is situated in a cemetery, and
  - (b) was let to a tenant or a predecessor in title of his in consequence of the tenant or predecessor being in the employment of the landlord or of—  
 a local authority,

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a new town corporation,  
[<sup>F72</sup>a housing action trust]  
the Development Board for Rural Wales,  
an urban development corporation, or  
the governors of an aided school.

- (2) In sub-paragraph (1)(a) “housing purposes” means the purposes for which dwelling-houses are held by local housing authorities under Part II (provision of housing) or purposes corresponding to those purposes.

**Textual Amendments**

**F72** Entry inserted by [Housing Act 1988 \(c. 50, SIF 61\)](#), s. **83(6)(d)**

*Certain dwelling-houses for the disabled*

6 ..... <sup>F73</sup>

**Textual Amendments**

**F73** [Sch. 5 paras. 6, 8](#) repealed by [Housing Act 1988 \(c. 50, SIF 61\)](#), ss. [123\(2\)\(3\)](#), [140\(2\)](#), [Sch. 18](#) (with a saving in [s.123\(3\)](#))

- 7 The right to buy does not arise if the dwelling-house has features which are substantially different from those of ordinary dwelling-houses and are designed to make it suitable for occupation by physically disabled persons, and—
- (a) it is one of a group of dwelling-houses which it is the practice of the landlord to let for occupation by physically disabled persons, and
  - (b) a social service or special facilities are provided in close proximity to the group of dwelling-houses wholly or partly for the purpose of assisting those persons.

8 ..... <sup>F74</sup>

**Textual Amendments**

**F74** [Sch. 5 paras. 6, 8](#) repealed by [Housing Act 1988 \(c. 50, SIF 61\)](#), ss. [123\(2\)\(3\)](#), [140\(2\)](#), [Sch. 18](#) (with a saving in [s.123\(3\)](#))

- 9 (1) The right to buy does not arise if—
- (a) the dwelling-house is one of a group of dwelling-houses which it is the practice of the landlord to let for occupation by persons who are suffering or have suffered from a mental disorder, and
  - (b) a social service or special facilities are provided wholly or partly for the purpose of assisting those persons.
- (2) In sub-paragraph (1)(a) “mental disorder” has the same meaning as in the <sup>M9</sup>Mental Health Act 1983

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#### Marginal Citations

**M9** 1983 c. 20.

#### *Certain dwelling-houses for persons of pensionable age*

- 10 (1) The right to buy does not arise if the dwelling-house is one of a group of dwelling-houses—
- (a) which are particularly suitable, having regard to their location, size, design, heating systems and other features, for occupation by [<sup>F75</sup>elderly persons] and
  - (b) which it is the practice of the landlord to let for occupation by [<sup>F75</sup>persons aged 60 or more], or for occupation by such persons and physically disabled persons,
- and special facilities such as are mentioned in sub-paragraph (2) are provided wholly or mainly for the purposes of assisting those persons.
- (2) The facilities referred to above are facilities which consist of or include—
- (a) the services of a resident warden, or
  - (b) the services of a non-resident warden, a system for calling him and the use of a common room in close proximity to the group of dwelling-houses.

#### Textual Amendments

**F75** Words in Sch. 5 para. 10(1) substituted (11.10.1993) by 1993 c. 28, s. 106(1)(3); S.I. 1993/2134, arts. 2, 4(b) (with saving in Sch. 1 para. 4(1)(3)).

- [<sup>F76</sup>11 (1) The right to buy does not arise if the dwelling-house—
- (a) is particularly suitable, having regard to its location, size, design, heating system and other features, for occupation by elderly persons, and
  - (b) was let to the tenant or a predecessor in title of his for occupation by a person who was aged 60 or more (whether the tenant or predecessor or another person).
- (2) In determining whether a dwelling is particularly suitable, no regard shall be had to the presence of any feature provided by the tenant or a predecessor in title of his.
- (3) Notwithstanding anything in section 181 (jurisdiction of county court), any question arising under this paragraph shall be determined as follows.
- (4) If an application for the purpose is made by the tenant to the Secretary of State before the end of the period of 56 days beginning with the service of the landlord's notice under section 124, the question shall be determined by the Secretary of State.
- (5) If no such application is so made, the question shall be deemed to have been determined in favour of the landlord.
- (6) This paragraph does not apply unless the dwelling-house concerned was first let before 1st January 1990.]



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### Textual Amendments

**F76** Sch. 5 para. 11 substituted (11.10.1993) by 1993 c. 28, s. 106(2)(3)(4); S.I. 1993/2134, arts. 2, 4(b) (with saving in Sch. 1 para. 4(1)).

### *Dwelling-houses held on Crown tenancies*

- 12 (1) The right to buy does not arise if the dwelling-house is held by the landlord on a tenancy from the Crown, unless—
- (a) the landlord is entitled to grant a lease in pursuance of this Part without the concurrence of the appropriate authority, or
  - (b) the appropriate authority notifies the landlord that as regards any Crown interest affected the authority will give its consent to the granting of such a lease.
- (2) In this paragraph “tenancy from the Crown” means a tenancy of land in which there is a Crown interest superior to the tenancy, and “Crown interest” and “appropriate authority” mean respectively—
- (a) an interest comprised in the Crown Estate, and the Crown Estate Commissioners or other government department having the management of the land in question;
  - (b) an interest belonging to Her Majesty in right of the Duchy of Lancaster, and the Chancellor of the Duchy;
  - (c) an interest belonging to the Duchy of Cornwall, and such person as the Duke of Cornwall or the possessor for the time being of the Duchy appoints;
  - (d) any other interest belonging to a government department or held on behalf of Her Majesty for the purposes of a government department, and that department.
- (3) Section 179(1) (which renders ineffective certain provisions restricting the grant of leases under this Part) shall be disregarded for the purposes of sub-paragraph (1)(a).

VALID FROM 18/01/2004

### *Dwelling-house due to be demolished within 24 months*

- 13 (1) The right to buy does not arise if a final demolition notice is in force in respect of the dwelling-house.
- (2) A “final demolition notice” is a notice—
- (a) stating that the landlord intends to demolish the dwelling-house or (as the case may be) the building containing it (“the relevant premises”),
  - (b) setting out the reasons why the landlord intends to demolish the relevant premises,
  - (c) specifying—
    - (i) the date by which he intends to demolish those premises (“the proposed demolition date”), and

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- (ii) the date when the notice will cease to be in force (unless extended under paragraph 15),
- (d) stating that one of conditions A to C in paragraph 14 is satisfied in relation to the notice (specifying the condition concerned), and
- (e) stating that the right to buy does not arise in respect of the dwelling-house while the notice is in force.
- (3) If, at the time when the notice is served, there is an existing claim to exercise the right to buy in respect of the dwelling-house, the notice shall (instead of complying with sub-paragraph (2)(e)) state—
- (a) that that claim ceases to be effective on the notice coming into force, but
- (b) that section 138C confers a right to compensation in respect of certain expenditure,
- and the notice shall also give details of that right to compensation and of how it may be exercised.
- (4) The proposed demolition date must fall within the period of 24 months beginning with the date of service of the notice on the tenant.
- (5) For the purposes of this paragraph a final demolition notice is in force in respect of the dwelling-house concerned during the period of 24 months mentioned in sub-paragraph (4), but this is subject to—
- (a) compliance with the conditions in sub-paragraphs (6) and (7) (in a case to which they apply), and
- (b) the provisions of paragraph 15(1) to (7).
- (6) If—
- (a) the dwelling-house is contained in a building which contains one or more other dwelling-houses, and
- (b) the landlord intends to demolish the whole of the building,
- the landlord must have served a final demolition notice on the occupier of each of the dwelling-houses contained in it (whether addressed to him by name or just as “the occupier”).
- An accidental omission to serve a final demolition notice on one or more occupiers does not prevent the condition in this sub-paragraph from being satisfied.
- (7) A notice stating that the landlord intends to demolish the relevant premises must have appeared—
- (a) in a local or other newspaper circulating in the locality in which those premises are situated (other than one published by the landlord), and
- (b) in any newspaper published by the landlord, and
- (c) on the landlord’s website (if he has one).
- (8) The notice mentioned in sub-paragraph (7) must contain the following information—
- (a) sufficient information to enable identification of the premises that the landlord intends to demolish;
- (b) the reasons why the landlord intends to demolish those premises;
- (c) the proposed demolition date;

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- (d) the date when any final demolition notice or notices relating to those premises will cease to be in force, unless extended or revoked under paragraph 15;
  - (e) that the right to buy will not arise in respect of those premises or (as the case may be) in respect of any dwelling-house contained in them;
  - (f) that there may be a right to compensation under section 138C in respect of certain expenditure incurred in respect of any existing claim.
- (9) In this paragraph and paragraphs 14 and 15 any reference to the landlord, in the context of a reference to an intention or decision on his part to demolish or not to demolish any premises, or of a reference to the acquisition or transfer of any premises, includes a reference to a superior landlord.
- [<sup>F77</sup>14 (1) A final demolition notice may only be served for the purposes of paragraph 13 if one of conditions A to C is satisfied in relation to the notice.
- (2) Condition A is that the proposed demolition of the dwelling-house does not form part of a scheme involving the demolition of other premises.
- (3) Condition B is that—
- (a) the proposed demolition of the dwelling-house does form part of a scheme involving the demolition of other premises, but
  - (b) none of those other premises needs to be acquired by the landlord in order for the landlord to be able to demolish them.
- (4) Condition C is that—
- (a) the proposed demolition of the dwelling-house does form part of a scheme involving the demolition of other premises, and
  - (b) one or more of those premises need to be acquired by the landlord in order for the landlord to be able to demolish them, but
  - (c) in each case arrangements for their acquisition are in place.
- (5) For the purposes of sub-paragraph (4) arrangements for the acquisition of any premises are in place if—
- (a) an agreement under which the landlord is entitled to acquire the premises is in force, or
  - (b) a notice to treat has been given in respect of the premises under section 5 of the Compulsory Purchase Act 1965, or
  - (c) a vesting declaration has been made in respect of the premises under section 4 of the Compulsory Purchase (Vesting Declarations) Act 1981.
- (6) In this paragraph—
- “premises” means premises of any description;
  - “scheme” includes arrangements of any description.

#### Textual Amendments

- F77** Sch. 5 paras. 13-16 and preceding cross-heading inserted (18.1.2004) by [Housing Act 2004 \(c. 34\)](#), ss. 182, 270(3)(a)

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- 15 (1) The Secretary of State may, on an application by the landlord, give a direction extending or further extending the period during which a final demolition notice is in force in respect of a dwelling-house.
- (2) A direction under sub-paragraph (1) may provide that any extension of that period is not to have effect unless the landlord complies with such requirements relating to the service of further notices as are specified in the direction.
- (3) A direction under sub-paragraph (1) may only be given at a time when the demolition notice is in force (whether by virtue of paragraph 13 or this paragraph).
- (4) If, while a final demolition notice is in force, the landlord decides not to demolish the dwelling-house in question, he must, as soon as is reasonably practicable, serve a notice (“a revocation notice”) on the tenant which informs him—
- (a) of the landlord’s decision, and
  - (b) that the demolition notice is revoked as from the date of service of the revocation notice.
- (5) If, while a final demolition notice is in force, it appears to the Secretary of State that the landlord has no intention of demolishing the dwelling-house in question, he may serve a notice (“a revocation notice”) on the tenant which informs him—
- (a) of the Secretary of State’s conclusion, and
  - (b) that the demolition notice is revoked as from the date of service of the revocation notice.
- Section 169 applies in relation to the Secretary of State’s power under this sub-paragraph as it applies in relation to his powers under the provisions mentioned in subsection (1) of that section.
- (6) But the Secretary of State may not serve a revocation notice unless he has previously served a notice on the landlord which informs him of the Secretary of State’s intention to serve the revocation notice.
- (7) Where a revocation notice is served under sub-paragraph (4) or (5), the demolition notice ceases to be in force as from the date of service of the revocation notice.
- (8) Once a final demolition notice has (for any reason) ceased to be in force in respect of a dwelling-house without it being demolished, no further final demolition notice may be served in respect of it during the period of 5 years following the time when the notice ceases to be in force, unless—
- (a) it is served with the consent of the Secretary of State, and
  - (b) it states that it is so served.
- (9) The Secretary of State’s consent under sub-paragraph (8) may be given subject to compliance with such conditions as he may specify.

VALID FROM 22/09/2008

- [<sup>F78</sup> 15A (1) This paragraph applies if—
- (a) a final demolition notice is in force in respect of a dwelling-house, and
  - (b) the landlord transfers his interest as landlord to another person.
- (2) The final demolition notice (“the original notice”) continues in force but this is subject to—

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- (a) paragraphs 13(5) and 15, and
  - (b) the following provisions of this paragraph.
- (3) Sub-paragraph (4) applies if the transferee—
- (a) intends to demolish the dwelling-house, but
  - (b) has not—
    - (i) served a continuation notice, and
    - (ii) complied with the conditions in sub-paragraphs (8) and (10), within the period of 2 months beginning with the date of transfer.
- (4) The transferee must proceed under paragraph 15(4) as if the transferee has decided not to demolish the dwelling-house (and paragraph 15(5) to (7) applies on the same basis).
- (5) A continuation notice is a notice—
- (a) stating that the transferee—
    - (i) has acquired the interest concerned, and
    - (ii) intends to demolish the dwelling-house or (as the case may be) the building containing it (“the relevant premises”),
  - (b) setting out the reasons why the transferee intends to demolish the relevant premises,
  - (c) stating that one of conditions A to C in paragraph 14 is satisfied in relation to the original notice (specifying the condition concerned),
  - (d) stating that the original notice is to continue in force, and
  - (e) explaining the continued effect of the original notice.
- (6) A continuation notice may not vary the proposed demolition date in the original notice nor the date when the original notice will cease to be in force.
- (7) Sub-paragraph (8) applies if—
- (a) the dwelling-house is contained in a building which contains one or more other dwelling-houses, and
  - (b) the transferee intends to demolish the whole of the building.
- (8) The transferee must serve a continuation notice on the occupier of each of the dwelling-houses contained in the building (whether addressed to him by name or just as “the occupier”).
- (9) An accidental omission to serve a continuation notice on one or more occupiers does not prevent the condition in sub-paragraph (8) from being satisfied.
- (10) Paragraph 13(7) and (8) apply in relation to the transferee's intention to demolish so as to impose a condition on the transferee for a notice to appear within the period of 2 months beginning with the date of transfer.
- (11) Sub-paragraphs (7) to (10) above apply instead of paragraph 13(6) to (8) in relation to a final demolition notice so far as continued in force under this paragraph.]]

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### Textual Amendments

- F77** Sch. 5 paras. 13-16 and preceding cross-heading inserted (18.1.2004) by [Housing Act 2004 \(c. 34\)](#), ss. 182, 270(3)(a)
- F78** Sch. 5 para. 15A inserted (22.9.2008) by [Housing and Regeneration Act 2008 \(c. 17\)](#), ss. 305, 325(2), [Sch. 13 para. 4](#) (with [Sch. 13 para. 14](#))

- 16 (1) Any notice under paragraph 13 or 15 may be served on a person—
- (a) by delivering it to him, by leaving it at his proper address or by sending it by post to him at that address, or
  - (b) if the person is a body corporate, by serving it in accordance with paragraph (a) on the secretary of the body.
- (2) For the purposes of this section and section 7 of the Interpretation Act 1978 (service of documents by post) the proper address of a person on whom a notice is to be served shall be—
- (a) in the case of a body corporate or its secretary, that of the registered or principal office of the body, and
  - (b) in any other case, the last known address of that person.

VALID FROM 18/01/2004

## SCHEDULE 5A

Section 138A

### INITIAL DEMOLITION NOTICES

## SCHEDULE 6

Sections 139 and 151.

### CONVEYANCE OF FREEHOLD AND GRANT OF LEASE IN PURSUANCE OF RIGHT TO BUY

#### PART I

#### COMMON PROVISIONS

##### *Rights to be conveyed or granted—general*

- 1 The conveyance or grant shall not exclude or restrict the general words implied under section 62 of the <sup>M10</sup>Law of Property Act 1925, unless the tenant consents or the exclusion or restriction is made for the purpose of preserving or recognising an existing interest of the landlord in tenant's incumbrances or an existing right or interest of another person.

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#### Marginal Citations

M10 1925 c. 20.

#### *Rights of support, passage of water, etc.*

- 2 (1) The conveyance or grant shall, by virtue of this Schedule, have the effect stated in sub-paragraph (2) as regards—
- (a) rights of support for a building or part of a building;
  - (b) rights to the access of light and air to a building or part of a building;
  - (c) rights to the passage of water or of gas or other piped fuel, or to the drainage or disposal of water, sewage, smoke or fumes, or to the use or maintenance of pipes or other installations for such passage, drainage or disposal;
  - (d) rights to the use or maintenance of cables or other installations for the supply of electricity, for the telephone or for the receipt directly or by landline of visual or other wireless transmissions.
- (2) The effect is—
- (a) to grant with the dwelling-house all such easements and rights over other property, so far as the landlord is capable of granting them, as are necessary to secure to the tenant as nearly as may be the same rights as at the relevant time were available to him under or by virtue of the secure tenancy or an agreement collateral to it, or under or by virtue of a grant, reservation or agreement made on the severance of the dwelling-house from other property then comprised in the same tenancy; and
  - (b) to make the dwelling-house subject to all such easements and rights for the benefit of other property as are capable of existing in law and are necessary to secure to the person interested in the other property as nearly as may be the same rights as at the relevant time were available against the tenant under or by virtue of the secure tenancy or an agreement collateral to it, or under or by virtue of a grant, reservation or agreement made as mentioned in paragraph (a).
- (3) This paragraph—
- (a) does not restrict any wider operation which the conveyance or grant may have apart from this paragraph; but
  - (b) is subject to any provision to the contrary that may be included in the conveyance or grant with the consent of the tenant.

#### *Rights of way*

- 3 The conveyance or grant shall include—
- (a) such provisions (if any) as the tenant may require for the purpose of securing to him rights of way over land not comprised in the dwelling-house, so far as the landlord is capable of granting them, being rights of way that are necessary for the reasonable enjoyment of the dwelling-house; and
  - (b) such provisions (if any) as the landlord may require for the purpose of making the dwelling-house subject to rights of way necessary for the reasonable enjoyment of other property, being property in which at the relevant time the landlord has an interest, or to rights of way granted or

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agreed to be granted before the relevant time by the landlord or by the person then entitled to the reversion on the tenancy.

*Covenants and conditions*

[<sup>F81</sup>4A he conveyance or grant shall be expressed to be made by the landlord with full title guarantee (thereby implying the covenants for title specified in Part I of the Law of Property (Miscellaneous Provisions) Act 1994).]

**Textual Amendments**

**F81** Sch. 6 Pt. I para. 4A inserted (1.7.1995) by 1994 c. 36, s. 21(1), **Sch. 1 para. 9(2)** (with s. 20); S.I. 1995/1317, **art. 2**

4 The conveyance or grant shall include such provisions (if any) as the landlord may require to secure that the tenant is bound by, or to indemnify the landlord against breaches of, restrictive covenants (that is to say, covenants or agreements restrictive of the use of any land or premises) which affect the dwelling-house otherwise than by virtue of the secure tenancy or an agreement collateral to it and are enforceable for the benefit of other property.

5 Subject to paragraph 6, and to Parts II and III of this Schedule, the conveyance or grant may include such [<sup>F82</sup>other covenants] and conditions as are reasonable in the circumstances.

**Textual Amendments**

**F82** Words in Sch. 6 Pt. I para. 5 substituted (1.7.1995) by 1994 c. 36, s. 21(1), **Sch. 1 para. 9(3)** (with s. 20); S.I. 1995/1317, **art. 2**

*No charge to be made for landlord's consent or approval*

6 A provision of the conveyance or lease is void in so far as it purports to enable the landlord to charge the tenant a sum for or in connection with the giving of a consent or approval.

*Meaning of "incumbrances" and "tenant's incumbrance"*

7 In this Schedule—  
 “incumbrances” includes personal liabilities attaching in respect of the ownership of land or an interest in land though not charged on the land or interest; and  
 “tenant's incumbrance” means—  
 (a) an incumbrance on the secure tenancy which is also an incumbrance on the reversion, and  
 (b) an interest derived, directly or indirectly, out of the secure tenancy.



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## PART II

### CONVEYANCE OF FREEHOLD

#### *General*

- 8 The conveyance shall not exclude or restrict the all estate clause implied under section 63 of the <sup>M11</sup>Law of Property Act 1925, unless the tenant consents or the exclusion or restriction is made for the purpose of preserving or recognising an existing interest of the landlord in tenant's incumbrances or an existing right or interest of another person.

#### **Marginal Citations**

**M11** 1925 c. 20

- 9 (1) The conveyance shall be of an estate in fee simple absolute, subject to—
- (a) tenant's incumbrances,
  - (b) burdens (other than burdens created by the conveyance) in respect of the upkeep or regulation for the benefit of any locality of any land, building, structure, works, ways or watercourses;
- but otherwise free from incumbrances.
- (2) Nothing in sub-paragraph (1) shall be taken as affecting the operation of paragraph 5 of this Schedule (reasonable covenants and conditions).

#### *Covenants*

<sup>F83</sup>10 .....

#### **Textual Amendments**

**F83** Sch. 6 Pt. II para. 10 repealed (1.7.1995) by 1994 c. 36, s. 21(1)(2), Sch. 1 para. 9(4), Sch. 2 (with s. 20); S.I. 1995/1317, art. 2

## PART III

### LEASES

#### *General*

- 11 A lease shall be for the appropriate term defined in paragraph 12 (but subject to sub-paragraph (3) of that paragraph) and at a rent not exceeding £10 per annum, and the following provisions have effect with respect to the other terms of the lease.

#### *The appropriate term*

- 12 (1) If at the time the grant is made the landlord's interest in the dwelling-house is not less than a lease for a term of which more than 125 years and five days are unexpired, the appropriate term is a term of not less than 125 years.

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- (2) In any other case the appropriate term is a term expiring five days before the term of the landlord's lease of the dwelling-house (or, as the case may require, five days before the first date on which the term of any lease under which the landlord holds any part of the dwelling-house) is to expire.
- (3) If the dwelling-house is a flat contained in a building, which also contains one or more other flats and the landlord has, since 8th August 1980, granted a lease of one or more of them for the appropriate term, the lease of the dwelling-house may be for a term expiring at the end of the term for which the other lease (or one of the other leases) was granted.

*Common use of premises and facilities*

- 13 Where the dwelling house is a flat and the tenant enjoyed, during the secure tenancy, the use in common with others of any premises, facilities or services, the lease shall include rights to the like enjoyment, so far as the landlord is capable of granting them, unless otherwise agreed between the landlord and the tenant.

*Covenants by the landlord*

- 14 (1) This paragraph applies where the dwelling-house is a flat.
- (2) There are implied covenants by the landlord—
- (a) to keep in repair the structure and exterior of the dwelling-house and of the building in which it is situated (including drains, gutters and external pipes) and to make good any defect affecting that structure;
  - (b) to keep in repair any other property over or in respect of which the tenant has rights by virtue of this Schedule;
  - (c) to ensure, so far as practicable, that services which are to be provided by the landlord and to which the tenant is entitled (whether by himself or in common with others) are maintained at a reasonable level and to keep in repair any installation connected with the provision of those services;
- ..... F84 .....
- (3) [<sup>F85</sup>There is an implied covenant] that the landlord shall rebuild or reinstate the dwelling-house and the building in which it is situated in the case of destruction or damage by fire, tempest, flood or any other cause against the risk of which it is normal practice to insure.
- [<sup>F86</sup>(3A) Sub-paragraphs (2) and (3) have effect subject to paragraph 15(3) (certain obligations not to be imposed, where landlord's title is leasehold, by reason of provisions of superior lease).]
- (4) The county court may, by order made with the consent of the parties, authorise the inclusion in the lease or in an agreement collateral to it of provisions excluding or modifying the obligations of the landlord under the covenants implied by this paragraph, if it appears to the court that it is reasonable to do so.

**Textual Amendments**

**F84** Words repealed by [Housing and Planning Act 1986 \(c. 63, SIF 61\)](#), s. 24(2)(3), Sch. 5 Pt. II para. 41(2), [Sch. 12](#). Pt. I

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- F85** By Housing and Planning Act 1986 (c. 63, SIF 61), s. 24(2), **Sch. 5 Pt. II para. 41(3)** it is provided that in Sch. 6 para. 14(3), for the words from the beginning to “requirement” there is inserted “There is an implied covenant”
- F86** Sch. 6 para. 14(3A) inserted by Housing and Planning Act 1986 (c. 63, SIF 61), s. 24(2), **Sch. 5 Pt. II para. 41(4)**

- 15 (1) This paragraph applies where the landlord’s interest in the dwelling-house is leasehold.
- (2) There is implied a covenant by the landlord to pay the rent reserved by the landlord’s lease and, except in so far as they fall to be discharged by the tenant, to discharge its obligations under the covenants contained in that lease.
- (3) A covenant implied by virtue of paragraph 14 (implied covenants where dwelling-house is a flat) shall not impose on the landlord an obligation which the landlord is not entitled to discharge under the provisions of the landlord’s lease or a superior lease.
- (4) Where the landlord’s lease or a superior lease, or an agreement collateral to the landlord’s lease or a superior lease, contains a covenant by a person imposing obligations which, but for sub-paragraph (3), would be imposed by a covenant implied by virtue of paragraph 14, there is implied a covenant by the landlord to use its best endeavours to secure that that person’s obligations under the first-mentioned covenant are discharged.

#### *Covenant by tenant*

- 16 Unless otherwise agreed between the landlord and the tenant, there is implied a covenant by the tenant—
- (a) where the dwelling-house is a house, to keep the dwelling-house in good repair (including decorative repair);
- (b) where the dwelling-house is a flat, to keep the interior of the dwelling-house in such repair.

#### *<sup>F87</sup> Service charges and other contributions payable by the tenant*

#### **Textual Amendments**

- F87** Sch. 6 Pt. III paras. 16A–D inserted by Housing and Planning Act 1986 (c. 63, SIF 61), s. 4(4)

- 16A (1) The lease may require the tenant to bear a reasonable part of the costs incurred by the landlord—
- (a) in discharging or insuring against the obligations imposed by the covenants implied by virtue of paragraph 14(2) (repairs, making good structural defects, provision of services, etc.), or
- (b) in insuring against the obligations imposed by the covenant implied by virtue of paragraph 14(3) (rebuilding or reinstatement, etc.),
- and to the extent that by virtue of paragraph 15(3) (effect of provision of superior lease) such obligations are not imposed on the landlord, to bear a reasonable part of the costs incurred by the landlord in contributing to costs incurred by a superior landlord or other person in discharging or, as the case may be, insuring against obligations to the like effect.

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- (2) Where the lease requires the tenant to contribute to the costs of insurance, it shall provide that the tenant is entitled to inspect the relevant policy at such reasonable times as may be specified in the lease.
- (3) Where the landlord does not insure against the obligations imposed by the covenant implied by virtue of paragraph 14(3), or, as the case may be, the superior landlord or other person does not insure against his obligations to the like effect, the lease may require the tenant to pay a reasonable sum in place of the contribution he could be required to make if there were insurance.
- (4) Where in any case the obligations imposed by the covenants implied by virtue of paragraph 14(2) or (3) are modified in accordance with paragraph 14(4) (power of county court to authorise modification), the references in this paragraph are to the obligations as so modified.
- (5) This paragraph has effect subject to paragraph 16B (restrictions in certain cases as regards costs incurred in the initial period of the lease).]
- [<sup>F88</sup>16B(1) Where a lease of a flat requires the tenant to pay service charges in respect of repairs (including works for the making good of structural defects), his liability in respect of costs incurred in the initial period of the lease is restricted as follows.
- (2) He is not required to pay in respect of works itemised in the estimates contained in the landlord's notice under section 125 any more than the amount shown as his estimated contribution in respect of that item, together with an inflation allowance.
- (3) He is not required to pay in respect of works not so itemised at a rate exceeding—
- (a) as regards parts of the initial period falling within the reference period for the purposes of the estimates contained in the landlord's notice under section 125, the estimated annual average amount shown in the estimates;
- (b) as regards parts of the initial period not falling within that reference period, the average rate produced by averaging over the reference period all works for which estimates are contained in the notice;
- together, in each case, with an inflation allowance.
- (4) The initial period of the lease for the purposes of this paragraph begins with the grant of the lease and ends five years after the grant, except that—
- (a) if the lease includes provision for service charges to be payable in respect of costs incurred in a period before the grant of the lease, the initial period begins with the beginning of that period;
- (b) if the lease provides for service charges to be calculated by reference to a specified annual period, the initial period continues until the end of the fifth such period beginning after the grant of the lease; <sup>F89</sup> . . .
- <sup>F89</sup>(c) . . . . .]

#### Textual Amendments

**F88** Sch. 6 Pt. III paras. 16A–D inserted by Housing and Planning Act 1986 (c. 63, SIF 61), s. 4(4)

**F89** Sch. 6 Pt. III para. 16B(4)(c) and preceding word repealed (11.10.1993) by 1993 c. 28, s. 187(2), Sch. 22; S.I. 1993/2134, arts. 2, 4(b), Sch. 2 (with saving in Sch. 1 paraS. 4(1), 10).

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- [<sup>F90</sup>16C(1) Where a lease of a flat requires the tenant to pay improvement contributions, his liability in respect of costs incurred in the initial period of the lease is restricted as follows.
- (2) He is not required to make any payment in respect of works for which no estimate was given in the landlord's notice under section 125.
  - (3) He is not required to pay in respect of works for which an estimate was given in that notice any more than the amount shown as his estimated contribution in respect of that item, together with an inflation allowance.
  - (4) The initial period of the lease for the purposes of this paragraph begins with the grant of the lease and ends five years after the grant, except that—
    - (a) if the lease includes provision for improvement contributions to be payable in respect of costs incurred in a period before the grant of the lease, the initial period begins with the beginning of that period;
    - (b) if the lease provides for improvement contributions to be calculated by reference to a specified annual period, the initial period continues until the end of the fifth such period beginning after the grant of the lease; <sup>F91</sup> . . .
- <sup>F91</sup>(c) . . . . .]

**Textual Amendments**

**F90** Sch. 6 Pt. III paras. 16A–D inserted by [Housing and Planning Act 1986 \(c. 63, SIF 61\)](#), s. 4(4)

**F91** Sch. 6 Pt. III para. 16C(4)(c) and preceding word repealed (11.10.1993) by 1993 c. 28, s. 187(2), [Sch. 22](#); S.I. 1993/2134, arts. 2, 4(b), [Sch. 2](#) (with saving in [Sch. 1](#) paraS. 4(1), 10).

- [<sup>F92</sup>16D(1) The Secretary of State may by order prescribe—
- (a) the method by which inflation allowances for the purposes of paragraph 16B or 16C are to be calculated by reference to published statistics; and
  - (b) the information to be given to a tenant when he is asked to pay a service charge or improvement contribution to which the provisions of paragraph 16B or 16C are or may be relevant.
- (2) An order—
- (a) may make different provision for different cases or descriptions of case, including different provision for different areas;
  - (b) may contain such incidental, supplementary or transitional provisions as the Secretary of State thinks appropriate; and
  - (c) shall be made by statutory instrument which shall be subject to annulment in pursuance of a resolution of either House of Parliament.]

**Textual Amendments**

**F92** Sch. 6 Pt. III paras. 16A–D inserted by [Housing and Planning Act 1986 \(c. 63, SIF 61\)](#), s. 4(4)

- [<sup>F93</sup>16H(1) Where a lease of a flat granted in pursuance of the right to acquire on rent to mortgage terms requires the tenant to pay—
- (a) service charges in respect of repairs (including works for the making good of structural defects), or
  - (b) improvement contributions,

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his liability in respect of costs incurred at any time before the final payment is made is restricted as follows.

(2) He is not required to pay any more than the amount determined by the formula—

$$M = Px \frac{100-S}{100}$$

where—

M = the maximum amount which he is required to pay;

P = the amount which, but for this paragraph, he would be required to pay;

S = the landlord's share at the time expressed as a percentage.]

#### Textual Amendments

**F93** Sch. 6 Pt. III para. 16E inserted (11.10.1993) by 1993 c. 28, s. 116(2); S.I. 1993/2134, arts. 2, 4(b) (with saving in Sch. 1 para. 4(1)).

#### *Avoidance of certain provisions*

17 (1) A provision of the lease, or of an agreement collateral to it, is void in so far as it purports to prohibit or restrict the assignment of the lease or the subletting, wholly or in part, of the dwelling-house.

(2) Sub-paragraph (1) has effect subject to section 157 (restriction on disposal of dwelling-houses in National Parks, etc.).

[<sup>F94</sup>18 Where the dwelling-house is a flat, a provision of the lease or of an agreement collateral to it is void in so far as it purports—

- (a) to authorise the recovery of such a charge as is mentioned in paragraph 16A (contributions in respect of repairs, etc.) otherwise than in accordance with that paragraph and paragraph 16B (restrictions in initial period of lease); or
- (b) to authorise the recovery of any charge in respect of costs incurred by the landlord—

- (i) in discharging the obligations imposed by the covenant implied by paragraph 14(3) (rebuilding or reinstatement, &c.), or those obligations as modified in accordance with paragraph 14(4), or

- (ii) in contributing to costs incurred by a superior landlord or other person in discharging obligations to the like effect; or

- (c) to authorise the recovery of an improvement contribution otherwise than in accordance with paragraph 16C (restrictions in initial period of lease).]

#### Textual Amendments

**F94** Sch. 6 para. 18 substituted by Housing and Planning Act 1986 (c. 63, SIF 61), s. 4(4)(6)

*Status: Point in time view as at 01/10/1997.*

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- 19 A provision of the lease, or of an agreement collateral to it, is void in so far as it purports to authorise a forfeiture, or to impose on the tenant a penalty or disability, in the event of his enforcing or relying on the preceding provisions of this Schedule.

#### 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 buy.

##### *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 buy.
- (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; 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 rent charge is of a kind which may be redeemed under the <sup>M12</sup>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 buy but subject to the rentcharge shall be treated as if it had not been so conveyed but had continued to be owned by him.

#### Marginal Citations

M12 1977 c. 30.

*Status: Point in time view as at 01/10/1997.*

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## [<sup>F95</sup>SCHEDULE 6A

### REDEMPTION OF LANDLORD'S SHARE

#### Textual Amendments

**F95** Sch. 6A inserted (11.10.1993) by 1993 c. 28, s. 117(2), **Sch. 16**; S.I. 1993/2134, **arts. 2, 4(b)** (with saving in Sch. 1 para. 4(1)).

#### *<sup>F96</sup>Obligation to redeem landlord's share in certain circumstances*

#### Textual Amendments

**F96** Sch. 6A inserted (11.10.1993) by 1993 c. 28, s. 117(2), **Sch. 16**; S.I. 1993/2134, **arts. 2, 4(b)** (with saving in Sch. 1 para. 4(1)).

- <sup>F97</sup>1 (1) The conveyance or grant shall contain a covenant binding on the secure tenant and his successors in title to make to the landlord, immediately after—
- (a) the making of a relevant disposal which is not an excluded disposal, or
  - (b) the expiry of the period of one year beginning with a relevant death,
- (whichever first occurs), a final payment, that is to say, a payment of the amount required to redeem the landlord's share.
- (2) A disposal is an excluded disposal for the purposes of this paragraph if—
- (a) it is a further conveyance of the freehold or an assignment of the lease and the person or each of the persons to whom it is made is, or is the spouse of, the person or one of the persons by whom it is made;
  - (b) it is a vesting in a person taking under a will or intestacy; or
  - [<sup>F98</sup>(c) it is a disposal in pursuance of an order under—
    - (i) section 24 or 24A of the Matrimonial Causes Act 1973 (property adjustment orders or orders for the sale of property in connection with matrimonial proceedings),
    - (ii) section 2 of the Inheritance (Provision for Family and Dependants) Act 1975 (orders as to financial provision to be made from estate),
    - (iii) section 17 of the Matrimonial and Family Proceedings Act 1984 (property adjustment orders or orders for the sale of property after overseas divorce, &c.), or
    - (iv) paragraph 1 of Schedule 1 to the Children Act 1989 (orders for financial relief against parents),]
 and (in any case) an interest to which this paragraph applies subsists immediately after the disposal.
- (3) In this paragraph “relevant death” means the death of a person who immediately before his death was the person or, as the case may be, the last remaining person entitled to an interest to which this paragraph applies.
- (4) A beneficial interest in the dwelling-house is an interest to which this paragraph applies if the person entitled to it is—



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- (a) the secure tenant or, as the case may be, one of the secure tenants, or
- (b) a qualifying person.

**Textual Amendments**

- F97** Sch. 6A inserted (11.10.1993) by 1993 c. 28, s. 117(2), **Sch. 16**; S.I. 1993/2134, **arts. 2, 4(b)** (with saving in Sch. 1 para. 4(1)).
- F98** Sch. 6A para. 1(2)(c) substituted (1.10.1996) by 1996 c. 52, s. 222, **Sch. 18 Pt. III para. 17**; S.I. 1996/2402, **art. 3**

*F99* *Right to redeem landlord's share at any time*

**Textual Amendments**

- F99** Sch. 6A inserted (11.10.1993) by 1993 c. 28, s. 117(2), **Sch. 16**; S.I. 1993/2134, **arts. 2, 4(b)** (with saving in Sch. 1 para. 4(1)).

- F100**<sup>2</sup> (1) The conveyance or grant shall include provision entitling the secure tenant and his successors in title to make a final payment at any time.
- (2) The right shall be exercisable by written notice served on the landlord claiming to make a final payment.
- (3) The notice may be withdrawn at any time by written notice served on the landlord.
- (4) If the final payment is not tendered to the landlord before the end of the period of three months beginning with the time when the value of the dwelling-house is agreed or determined in accordance with paragraph 8, the notice claiming to make a final payment shall be deemed to have been withdrawn.

**Textual Amendments**

- F100** Sch. 6A inserted (11.10.1993) by 1993 c. 28, s. 117(2), **Sch. 16**; S.I. 1993/2134, **arts. 2, 4(b)** (with saving in Sch. 1 para. 4(1)).

*F101* *Value of landlord's share and amount of final payment*

**Textual Amendments**

- F101** Sch. 6A inserted (11.10.1993) by 1993 c. 28, s. 117(2), **Sch. 16**; S.I. 1993/2134, **arts. 2, 4(b)** (with saving in Sch. 1 para. 4(1)).

- F102**<sup>3</sup> The value of the landlord's share shall be determined by the formula -  
and the amount required to redeem that share shall be determined by the formula—

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**Textual Amendments**

**F102** Sch. 6A inserted (11.10.1993) by 1993 c. 28, s. 117(2), **Sch. 16**; S.I. 1993/2134, **arts. 2, 4(b)** (with saving in Sch. 1 para. 4(1)).

*<sup>F103</sup>Final discount*

**Textual Amendments**

**F103** Sch. 6A inserted (11.10.1993) by 1993 c. 28, s. 117(2), **Sch. 16**; S.I. 1993/2134, **arts. 2, 4(b)** (with saving in Sch. 1 para. 4(1)).

- <sup>F104</sup> (1) Where a final payment is made by, or by two or more persons who include—
- (a) the secure tenant or, as the case may be, one of the secure tenants, or
  - (b) a qualifying person,
- the person or persons making the payment are entitled, subject to the following provisions of this paragraph and paragraph 5, to a final discount equal to 20 per cent. of the value of the landlord's share.
- (2) Sub-paragraph (1) shall not apply if the final payment is made after the end of the protection period, that is to say, the period of two years beginning with the time when there ceases to be an interest to which this sub-paragraph applies.
- (3) A beneficial interest in the dwelling-house is an interest to which sub-paragraph (2) applies if the person entitled to it is—
- (a) the secure tenant or, as the case may be, one of the secure tenants, or
  - (b) a qualifying spouse.
- (4) The Secretary of State may by order made with the consent of the Treasury provide that the percentage discount shall be such percentage as may be specified in the order.
- (5) 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,
  - (b) may contain such incidental, supplementary or transitional provisions as appear to the Secretary of State necessary or expedient, and
  - (c) shall be made by statutory instrument and shall not be made unless a draft of the order has been laid before and approved by resolution of each House of Parliament.

**Textual Amendments**

**F104** Sch. 6A inserted (11.10.1993) by 1993 c. 28, s. 117(2), **Sch. 16**; S.I. 1993/2134, **arts. 2, 4(b)** (with saving in Sch. 1 para. 4(1)).

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### *F105 Restrictions on and deductions from final discount*

#### **Textual Amendments**

**F105** Sch. 6A inserted (11.10.1993) by 1993 c. 28, s. 117(2), Sch. 16; S.I. 1993/2134, arts. 2, 4(b) (with saving in Sch. 1 para. 4(1)).

- F1065** (1) Except where the Secretary of State so determines, a final discount shall not reduce the total purchase price, that is to say, the aggregate of the initial payment, the final payment and any interim payments, below the amount which would be applicable under section 131(1) in respect of the dwelling-house if the relevant time were the time when the value of the dwelling-house is agreed or determined.
- (2) The total discount, that is to say, the aggregate of the initial discount, the final discount and any interim discounts, shall not in any case reduce the total purchase price by more than the sum prescribed for the purposes of section 131(2) at the time when the value of the dwelling-house is agreed or determined.
- (3) If a final payment is made after the end of the first twelve months of the protection period, there shall be deducted from any final discount given by paragraph 4 and the preceding provisions of this paragraph an amount equal to 50 per cent. of that discount.
- (4) There shall be deducted from any final discount given by paragraph 4 and the preceding provisions of this paragraph an amount equal to any previous discount qualifying or, the aggregate of any previous discounts qualifying, under the provisions of section 130.
- (5) A determination under this paragraph may make different provision for different cases or descriptions of case, including different provision for different areas.

#### **Textual Amendments**

**F106** Sch. 6A inserted (11.10.1993) by 1993 c. 28, s. 117(2), Sch. 16; S.I. 1993/2134, arts. 2, 4(b) (with saving in Sch. 1 para. 4(1)).

### *F107 Right to make interim payment at any time*

#### **Textual Amendments**

**F107** Sch. 6A inserted (11.10.1993) by 1993 c. 28, s. 117(2), Sch. 16; S.I. 1993/2134, arts. 2, 4(b) (with saving in Sch. 1 para. 4(1)).

- F1086** (1) The conveyance or grant shall include provision entitling the secure tenant and his successors in title at any time to make to the landlord an interim payment, that is to say, a payment which—
- (a) is less than the amount required to redeem the landlord's share; but
- (b) is not less than 10 per cent. of the value of the dwelling-house (agreed or determined in accordance with paragraph 8).

*Status: Point in time view as at 01/10/1997.*

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- (2) The right shall be exercisable by written notice served on the landlord, claiming to make an interim payment and stating the amount of the interim payment proposed to be made.
- (3) The notice may be withdrawn at any time by written notice served on the landlord.
- (4) If the interim payment is not tendered to the landlord before the end of the period of three months beginning with the time when the value of the dwelling-house is agreed or determined in accordance with paragraph 8, the notice claiming to make an interim payment shall be deemed to have been withdrawn.

**Textual Amendments**

**F108** Sch. 6A inserted (11.10.1993) by 1993 c. 28, s. 117(2), Sch. 16; S.I. 1993/2134, arts. 2, 4(b) (with saving in Sch. 1 para. 4(1)).

*F109 Landlord's reduced share and interim discount*

**Textual Amendments**

**F109** Sch. 6A inserted (11.10.1993) by 1993 c. 28, s. 117(2), Sch. 16; S.I. 1993/2134, arts. 2, 4(b) (with saving in Sch. 1 para. 4(1)).

- F1107** The landlord's share after the making of an interim payment shall be determined by the formula -
- the amount of the interim discount shall be determined by the formula—
- and the amount of any previous discount which will be recovered by virtue of the making of an interim payment shall be determined by the formula—

**Textual Amendments**

**F110** Sch. 6A inserted (11.10.1993) by 1993 c. 28, s. 117(2), Sch. 16; S.I. 1993/2134, arts. 2, 4(b) (with saving in Sch. 1 para. 4(1)).

*F111 Value of dwelling-house*

**Textual Amendments**

**F111** Sch. 6A inserted (11.10.1993) by 1993 c. 28, s. 117(2), Sch. 16; S.I. 1993/2134, arts. 2, 4(b) (with saving in Sch. 1 para. 4(1)).

- F1128** (1) For the purposes of the final payment or any interim payment, the value of a dwelling-house is the amount which for those purposes—
- (a) is agreed at any time between the parties, or
  - (b) in default of such agreement, is determined at any time by an independent valuer,

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as the amount which, in accordance with this paragraph, is to be taken as its value at that time.

- (2) Subject to sub-paragraph (6), that value shall be taken to be the price which the interest of the secure tenant in the dwelling-house would realise if sold on the open market by a willing vendor—
  - (a) on the assumption that the liabilities mentioned in sub-paragraph (3) would be discharged by the vendor, and
  - (b) disregarding the matters specified in sub-paragraph (4).
- (3) The liabilities referred to in sub-paragraph (2)(a) are—
  - (a) any mortgages of the interest of the secure tenant,
  - (b) the liability under the covenant required by paragraph 1, and
  - (c) any liability under the covenant required by section 155(3) (repayment of discount on early disposal).
- (4) The matters to be disregarded in pursuance of sub-paragraph (2)(b) are—
  - (a) any interests or rights created over the dwelling-house by the secure tenant,
  - (b) any improvements made by the secure tenant or any of the persons mentioned in section 127(4) (certain predecessors as secure tenant), and
  - (c) any failure by the secure tenant or any of those persons—
    - (i) where the dwelling-house is a house, to keep the dwelling-house in good repair (including decorative repair);
    - (ii) where the dwelling-house is a flat, to keep the interior of the dwelling-house in such repair.
- (5) Sub-paragraph (6) applies where, at the time when the value of the dwelling-house is agreed or determined, the dwelling-house—
  - (a) has been destroyed or damaged by fire, tempest, flood or any other cause against the risk of which it is normal practice to insure, and
  - (b) has not been fully rebuilt or reinstated.
- (6) That value shall be taken to include the value of such of the following as are applicable, namely—
  - (a) any sums paid or falling to be paid to the secure tenant under a relevant policy in so far as they exceed the cost of any rebuilding or reinstatement which has been carried out;
  - (b) any rights of the secure tenant under the covenant implied by paragraph 14(3) of Schedule 6 (covenant to rebuild or reinstate); and
  - (c) any rights of the secure tenant under the covenant implied by paragraph 15(4) of that Schedule (covenant to use best endeavours to secure rebuilding or reinstatement).
- (7) In sub-paragraph (6) “relevant policy” means a policy insuring the secure tenant against the risk of fire, tempest or flood or any other risk against which it is normal practice to insure.
- (8) References in this paragraph to the secure tenant include references to his successors in title.

*Status: Point in time view as at 01/10/1997.*

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**Textual Amendments**

**F112** Sch. 6A inserted (11.10.1993) by 1993 c. 28, s. 117(2), **Sch. 16**; S.I. 1993/2134, **arts. 2, 4(b)** (with saving in Sch. 1 para. 4(1)).

*<sup>F113</sup>Costs of independent valuation*

**Textual Amendments**

**F113** Sch. 6A inserted (11.10.1993) by 1993 c. 28, s. 117(2), **Sch. 16**; S.I. 1993/2134, **arts. 2, 4(b)** (with saving in Sch. 1 para. 4(1)).

<sup>F114</sup>9 The conveyance or grant shall include provision requiring any sums falling to be paid to an independent valuer (whether by way of fees or expenses or otherwise) to be paid by the secure tenant or his successors in title.

**Textual Amendments**

**F114** Sch. 6A inserted (11.10.1993) by 1993 c. 28, s. 117(2), **Sch. 16**; S.I. 1993/2134, **arts. 2, 4(b)** (with saving in Sch. 1 para. 4(1)).

*<sup>F115</sup>No charges to be made by landlord*

**Textual Amendments**

**F115** Sch. 6A inserted (11.10.1993) by 1993 c. 28, s. 117(2), **Sch. 16**; S.I. 1993/2134, **arts. 2, 4(b)** (with saving in Sch. 1 para. 4(1)).

<sup>F116</sup>10 A provision of the conveyance or grant is void in so far as it purports to enable the landlord to charge the tenant or his successors in title a sum in respect of or in connection with the making of a final or interim payment.

**Textual Amendments**

**F116** Sch. 6A inserted (11.10.1993) by 1993 c. 28, s. 117(2), **Sch. 16**; S.I. 1993/2134, **arts. 2, 4(b)** (with saving in Sch. 1 para. 4(1)).

*<sup>F117</sup>Other covenants and provisions*

**Textual Amendments**

**F117** Sch. 6A inserted (11.10.1993) by 1993 c. 28, s. 117(2), **Sch. 16**; S.I. 1993/2134, **arts. 2, 4(b)** (with saving in Sch. 1 para. 4(1)).

<sup>F118</sup>11 Subject to the provisions of this Schedule, the conveyance or grant may include such covenants and provisions as are reasonable in the circumstances.

*Status: Point in time view as at 01/10/1997.*

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#### Textual Amendments

**F118** Sch. 6A inserted (11.10.1993) by 1993 c. 28, s. 117(2), **Sch. 16**; S.I. 1993/2134, **arts. 2, 4(b)** (with saving in Sch. 1 para. 4(1)).

#### *F119* Interpretation]

#### Textual Amendments

**F119** Sch. 6A inserted (11.10.1993) by 1993 c. 28, s. 117(2), **Sch. 16**; S.I. 1993/2134, **arts. 2, 4(b)** (with saving in Sch. 1 para. 4(1)).

**F120** 12 (1) In this Schedule—

“independent valuer” means an independent valuer appointed in pursuance of provisions in that behalf contained in the conveyance or grant;

“protection period” has the meaning given by paragraph 4(2);

“qualifying person” means a qualifying spouse or a qualifying resident.

(2) A person is a qualifying spouse for the purposes of this Schedule if—

- (a) he is entitled to a beneficial interest in the dwelling-house immediately after the time when there ceases to be an interest to which this paragraph applies;
- (b) he is occupying the dwelling-house as his only or principal home immediately before that time; and
- (c) he is the spouse or surviving spouse of the person who immediately before that time was entitled to the interest to which this paragraph applies or, as the case may be, the last remaining such interest, or is the surviving spouse of a person who immediately before his death was entitled to such an interest;

and any reference in this paragraph to the spouse or surviving spouse of a person includes a reference to a former spouse or surviving former spouse of that person.

(3) A person is a qualifying resident for the purposes of this Schedule if—

- (a) he is entitled to a beneficial interest in the dwelling-house immediately after the time when there ceases to be an interest to which this paragraph applies;
- (b) he is occupying the dwelling-house as his only or principal home immediately before that time;
- (c) he has resided throughout the period of twelve months ending with that time—
  - (i) with the person who immediately before that time was entitled to the interest to which this paragraph applies or, as the case may be, the last remaining such interest, or
  - (ii) with two or more persons in succession each of whom was throughout the period of residence with him entitled to such an interest; and
- (d) he is not a qualifying spouse.

(4) A beneficial interest in the dwelling-house is an interest to which this paragraph applies if the person entitled to it is the secure tenant or, as the case may be, one of the secure tenants.

*Status: Point in time view as at 01/10/1997.*

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- (5) References in this Schedule to the secure tenant are references to the secure tenant or tenants to whom the conveyance or grant is made and references to the secure tenant or, as the case may be, one of the secure tenants shall be construed accordingly.
- (6) References in this Schedule to the secure tenant's successors in title do not include references to any person entitled to a legal charge having priority to the mortgage required by section 151B (mortgage for securing redemption of landlord's share) or any person whose title derives from such a charge.

#### Textual Amendments

**F120** Sch. 6A inserted (11.10.1993) by 1993 c. 28, s. 117(2), **Sch. 16**; S.I. 1993/2134, arts. 2, 4(b) (with saving in Sch. 1 para. 4(1)).

### F121 SCHEDULE 7

#### Textual Amendments

**F121** Sch. 7 repealed (11.10.1993) by 1993 c. 28, s. 187(2), **Sch. 22**; S.I. 1993/2134, arts. 2, 4(b), **Sch. 2** (with saving in Sch. 1 para. 4(1)).

### F122 SCHEDULE 8

#### Textual Amendments

**F122** Sch. 8 repealed (11.10.1993) by 1993 c. 28, s. 187(2), **Sch. 22**; S.I. 1993/2134, arts. 2, 4(b), **Sch. 2** (with saving in Sch. 1 para. 4(1)).

### F125 SCHEDULE 9

#### Textual Amendments

**F125** Sch. 9 repealed (11.10.1993) by 1993 c. 28, s. 187(2), **Sch. 22**; S.I. 1993/2134, arts. 2, 4(b), **Sch. 2** (with saving in Sch. 1 para. 4(1)).



*Status: Point in time view as at 01/10/1997.*

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PROSPECTIVE

[<sup>F128</sup>SCHEDULE 9A

LAND REGISTRATION AND RELATED MATTERS WHERE RIGHT TO BUY PRESERVED

**Textual Amendments**

**F128** Sch. 9A inserted by Housing and Planning Act 1986 (c. 63, SIF 61), s. 8(2), Sch. 2

*Statement to be contained in instrument effecting qualifying disposal*

- 1 On a qualifying disposal, the disponent shall secure that the instrument effecting the disposal—
- (a) states that the disposal is, so far as it relates to dwelling-houses occupied by secure tenants, a disposal to which section 171A applies (preservation of right to buy on disposal to private landlord), and
  - (b) lists, to the best of the disponent's knowledge and belief, the dwelling-houses to which the disposal relates which are occupied by secure tenants.

*Registration of title on qualifying disposal*

- 2 (1) <sup>F129</sup> .....
- (2) [ Where on a qualifying disposal the disponent's title to the dwelling-house is not registered, the disponent] shall give the disponent a certificate stating that the disponent is entitled to effect the disposal subject only to such incumbrances, rights and interests as are stated in the instrument effecting the disposal or summarised in the certificate.
- (3) Where the disponent's interest in the dwelling-house is a lease, the certificate shall also state particulars of the lease and, with respect to each superior title—
- (a) where it is registered, the title number;
  - (b) where it is not registered, whether it was investigated in the usual way on the grant of the disponent's lease.
- (4) The certificate shall be—
- (a) in a form approved by the Chief Land Registrar, and
  - (b) signed by such officer of the disponent or such other person as may be approved by the Chief Land Registrar.
- and the Chief Registrar shall, for the purpose of registration of title, accept the certificate as sufficient evidence of the facts stated in it.

**Textual Amendments**

**F129** Sch. 9A para. 2(1) repealed (13.10.2003) by 2002 c. 9, ss. 135, 136(2), Sch. 13 (with s. 129, Sch. 12 para. 1); S.I. 2003/1725, art. 2(1)

*Status: Point in time view as at 01/10/1997.*

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F130

**Textual Amendments**

**F130** Sch. 9A para. 3 repealed (13.10.2003) by 2002 c. 9, ss. 135, 136(2), Sch. 13 (with s. 129, Sch. 12 para. 1); S.I. 2003/1725, art. 2(1)

*Entries on register protecting preserved right to buy*

[  
4

- (1) This paragraph applies where the Chief Land Registrar approves an application for registration of—
  - (a) a disposition of registered land, or
  - (b) the donee’s title under a disposition of unregistered land,
 and the instrument effecting the disposition contains the statement required by paragraph 1.
- (2) The Chief Land Registrar must enter in the register—
  - (a) a notice in respect of the rights of qualifying persons under this Part in relation to dwelling-houses comprised in the disposal, and
  - (b) a restriction reflecting the limitation under section 171D(2) on subsequent disposal.]

*Change of qualifying dwelling-house*

5

- (1) This paragraph applies where by virtue of section 171B(6) a new dwelling-house becomes the qualifying dwelling-house which—
  - (a) is entirely different from the previous qualifying dwelling-house, or
  - (b) includes new land,
 and applies to the new dwelling-house or the new land, as the case may be.
- [ If the landlord’s title is registered, the landlord shall apply for the entry in the register
- (2) of—
  - (a) a notice in respect of the rights of the qualifying person or persons under the provisions of this Part, and
  - (b) a restriction reflecting the limitation under section 171D(2) on subsequent disposal.]
- (3) <sup>F131</sup> .....
- (4) If the landlord’s title is not registered, the rights of the qualifying person or persons under the provisions of this Part are registrable under the Land Charges Act <sup>M13</sup>1972 in the same way as an estate contract and the landlord shall, and a qualifying person may, apply for such registration.

**Textual Amendments**

**F131** Sch. 9A para. 5(3) repealed (13.10.2003) by 2002 c. 9, ss. 133, 135, 136(2), Sch. 11 para. 18(9), Sch. 13 (with s. 129, Sch. 12 para. 1); S.I. 2003/1725, art. 2(1)

*Status: Point in time view as at 01/10/1997.*

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#### Marginal Citations

M13 1972 c.61(98:2).

#### *Effect of non-registration*

- 6 [ The rights of a qualifying person under this Part in relation to the qualifying dwelling
- (1) house shall not be regarded as falling within Schedule 3 to the Land Registration Act 2002 (and so are liable to be postponed under section 29 of that Act, unless protected by means of a notice in the register).]
- (2) Where by virtue of paragraph 5(4) the rights of a qualifying person under this Part in relation to the qualifying dwelling-house are registrable under the Land Changes Act <sup>M14</sup>1972 in the same way as an estate contract, section 4(6) of that Act (under which such a contract may be void against a purchaser unless registered) applies accordingly, with the substitution for the reference to the contract being void of a reference to the right to buy ceasing to be preserved.

#### Marginal Citations

M14 1972 c.61(98:2).

#### *Statement required on certain disposals on which right to buy ceases to be preserved*

- 7 (1) A conveyance of the freehold or grant of a lease of the qualifying dwelling-house to a qualifying person in pursuance of the right to buy shall state that it is made in pursuance of the provisions of this Part as they apply by virtue of section 171A (preservation of the right to buy).
- (2) Where on a conveyance of the freehold or grant of a lease of the qualifying dwelling-house to a qualifying person otherwise than in pursuance of the right to buy the dwelling-house ceases to be subject to any rights arising under this Part, the conveyance or grant shall contain a statement to that effect.
- (3) Where on a disposal of an interest in a qualifying dwelling-house the dwelling-house ceases to be subject to the rights of a qualifying person under this Part by virtue of section 171D(1)(a) or 171E(2)(a) (qualifying person becoming tenant of authority or body satisfying landlord condition for secure tenancies), the instrument by which the disposal is effected shall state that the dwelling-house ceases as a result of the disposal to be subject to any rights arising by virtue of section 171A (preservation of the right to buy).

#### *Removal of entries on land register*

- 8 Where the registered title to land contains an entry made by virtue of this Schedule, the Chief Land Registrar shall, for the purpose of removing or amending the entry, accept as sufficient evidence of the facts stated in it a certificate by the registered proprietor that the whole or a specified part of the land is not subject to any rights of a qualifying person under this Part.

#### *Liability to compensate or indemnify*

- 9 (1) An action for breach of statutory duty lies where—

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- (a) the disponent on a qualifying disposal fails to comply with paragraph 1 (duty to secure inclusion of statement in instrument effecting disposal), or
- (b) the landlord on a change of the qualifying dwelling-house fails to comply with paragraph 5(2) or (4) (duty to apply for registration protecting preserved right to buy),

and a qualifying person is deprived of the preserved right to buy by reason of the non-registration of the matters which would have been registered if that duty had been complied with.

- (2) If the Chief Land Registrar has to meet a claim under the [Land Registration Act 2002] as a result of acting upon-
- (a) a certificate given in pursuance of paragraph 2 (certificate of title on first registration),
  - (b) a statement made in pursuance of paragraph 7 (statements required on disposal on which right to buy ceases to be preserved), or
  - (c) a certificate given in pursuance of paragraph 8 (certificate that dwelling-house has ceased to be subject to rights under this Part),
- the person who gave the certificate or made the statement shall indemnify him.

*Meaning of disposal and instrument effecting disposal*

10           References in this Schedule to a disposal or to the instrument effecting a disposal are to the conveyance, transfer, grant or assignment, as the case may be.]

SCHEDULE 10

Sections 193, 220 and 375.

RECOVERY OF EXPENSES INCURRED BY LOCAL HOUSING AUTHORITY

*Introductory*

- 1           The provisions of this Schedule have effect for enabling the local authority to recover expenses reasonably incurred by them in carrying out, [F132: in a case where the notice has not been complied with], works required to be carried out by a notice under—
- section 189 or 190 (repair notices),
  - ..... F133, or
  - section 352, . . . F133 or 372 (notices relating to houses in multiple occupation).

**Textual Amendments**

**F132** Words substituted by Local Government and Housing Act 1989 (c. 42, SIF 61), s. 165(1)(c), **Sch. 9 Pt. III para. 70(1)**

**F133** Words repealed by Local Government and Housing Act 1989 (c. 42, SIF 61), s. 194(4), **Sch. 12 Pt. II**

*Status: Point in time view as at 01/10/1997.*

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### *Recovery of expenses*

- 2 (1) The expenses are recoverable by the authority
- [<sup>F134</sup>(a) where the works were required by a notice under section 189 or section 190 (repair notices), from the person having control of the dwelling-house [<sup>F135</sup>house in multiple occupation] or part of the building to which the notice relates; and
- [<sup>F136</sup>(b) where the works were required by a notice under section 352 or 372 (notices relating to houses in multiple occupation), from the person having control of the house or the person managing the house, as the authority think fit;]]
- and in the following provisions of this paragraph the person from whom expenses are recoverable by virtue of this sub-paragraph is referred to as “person primarily liable”.
- (2) Where the person [<sup>F137</sup>primarily liable]—
- (a) in the case of a notice under section 189 or 190 (repair notices), receives the rent of the premises as agent or trustee for some other person, or
- (b) in the case of a notice under section 352, . . . <sup>F138</sup> or 372 (notices relating to houses in multiple occupation), was only properly served with that notice as being an agent or trustee for some other person,
- the expenses are also recoverable by the authority from that other person, or partly from him and partly from the person [<sup>F137</sup>primarily liable].
- (3) Where the person [<sup>F139</sup>primarily liable] proves—
- (a) that sub-paragraph (2) applies, and
- (b) that he has not, and since the date of the service on him of the demand has not had, in his hands on behalf of that other person sufficient money to discharge the whole demand of the authority,
- his liability is limited to the total amount of the money which he has, or has had, in his hands as mentioned in paragraph (b).
- (4) Expenses are not recoverable under this paragraph to the extent that they are by any direction of the court on appeal recoverable under an order of the court.

#### **Textual Amendments**

**F134** Words substituted by [Housing Act 1988 \(c. 50, SIF 61\)](#), s. 130(1)(3), **Sch. 15 para. 13(1)**

**F135** Words inserted by [Local Government and Housing Act 1989 \(c. 42, SIF 61\)](#), s. 165(1)(c), **Sch. 9 Pt. III para. 70(2)(a)**

**F136** [Sch. 10 para. 2\(b\)](#) substituted by virtue of [Local Government and Housing Act 1989 \(c. 42, SIF 61\)](#), s. 165(1)(c), **Sch. 9 Pt. III para. 70(2)(b)**

**F137** Words substituted by [Housing Act 1988 \(c. 50, SIF 61\)](#), s. 130(1)(3), **Sch. 15 para. 13(2)**

**F138** Figure repealed by [Local Government and Housing Act 1989 \(c. 42, SIF 61\)](#), s. 194(4), **Sch. 12 Pt. II**

**F139** Words substituted by [Housing Act 1988 \(c. 50, SIF 61\)](#), s. 130(1)(3), **Sch. 15 para. 13(2)**

### *Service of demand*

- 3 (1) A demand for the expenses, together with interest in accordance with paragraph 4, shall be served on the person from whom the authority seek to recover them.

*Status: Point in time view as at 01/10/1997.*

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- (2) On the date on which the demand is served, the authority shall serve a copy of it on every other person who, to the knowledge of the authority, is an owner, lessee or mortgagee of the premises.
- (3) The demand becomes operative, if no appeal is brought, on the expiry of 21 days from the date of service of the demand and is final and conclusive as to matters which could have been raised on an appeal.

#### *Interest*

- 4 Expenses in respect of which a demand is served carry interest, at such reasonable rate as the authority may determine, from the date of service until payment of all sums due under the demand.

*F140* .....

5

#### **Textual Amendments**

**F140** Sch. 10 para. 5 repealed by Local Government and Housing Act 1989 (c. 42, SIF 61), ss. 165(1)(c), 194(4), Sch. 9 Pt. III para. 70(3), **Sch. 12 Pt. II**

#### *Appeals*

- 6 (1) A person aggrieved by a demand for the recovery of expenses, . . . <sup>F141</sup>, may within 21 days of the service of the demand or copy, . . . <sup>F141</sup> appeal to the county court.
- [<sup>F142</sup>(1A) Where the demand for recovery of expenses relates to works carried out by virtue of section 193(2A), it shall be a ground of appeal that, at the time the local housing authority gave notice under section 194 of their intention to enter and do the works, reasonable progress was being made towards compliance with the repair notice.]
- [<sup>F143</sup>(1B) Where the demand for recovery of expenses relates to works carried out by virtue of subsection (3) of section 375, it shall be a ground of appeal that, at the time the local housing authority served notice under subsection (3A) of that section, reasonable progress was being made towards compliance with the notice in question.]
- (2) On an appeal the court may make such order either confirming, quashing or varying the demand . . . <sup>F144</sup> as it thinks fit.
  - (3) A demand . . . <sup>F144</sup> against which an appeal is brought becomes operative, so far as it is confirmed on appeal, on the final determination of the appeal; and the withdrawal of an appeal has for this purpose the same effect as a decision dismissing the appeal.
  - (4) No question may be raised on appeal under this paragraph which might have been raised on an appeal against the relevant notice.

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#### Textual Amendments

- F141** Words repealed by [Local Government and Housing Act 1989 \(c. 42, SIF 61\)](#), s. 194(4), [Sch. 12 Pt. II](#)  
**F142** [Sch. 10 para. 6\(1A\)](#) inserted by [Housing Act 1988 \(c. 50, SIF 61\)](#), s. 130(1)(3), [Sch. 15 para. 13\(3\)](#)  
**F143** [Sch. 10 para. 6\(1B\)](#) inserted by [Local Government and Housing Act 1989 \(c. 42, SIF 61\)](#), s. 165(1)(c), [Sch. 9 Pt. III para. 70\(3\)](#)  
**F144** Words repealed by [Local Government and Housing Act 1989 \(c. 42, SIF 61\)](#), s. 194(4), [Sch. 12 Pt. II](#)

#### *[<sup>F145</sup> Expenses and interest recoverable from occupiers]*

#### Textual Amendments

- F145** [Sch. 10 para. 6A](#) inserted by [Local Government and Housing Act 1989 \(c. 42, SIF 61\)](#), s. 165(1)(c), [Sch. 9 Pt. III para. 70\(4\)](#)

- 6A (1) Where a demand becomes operative by virtue of paragraph 3(3) or 6(3), the local housing authority may serve notice on any person—
- who occupies the premises concerned, or part of those premises, as the tenant or licensee of the person on whom the demand was served under paragraph 3(1); and
  - who, by virtue of his tenancy or licence, pays rent or any sum in the nature of rent to the person on whom the demand was served,
- stating the amount of expenses recoverable by the authority and requiring all future payments of rent or sums in the nature of rent, whether already accrued due or not, by such tenant or licensee to be made direct to the authority until the expenses recoverable by the authority, together with interest accrued due, have been duly paid.
- (2) In the case of a demand which was served on any person as agent or trustee for another person (in this sub-paragraph referred to as “the principal or beneficiary”) sub-paragraph (1) shall have effect as if the reference in each of paragraphs (a) and (b) to the person on whom the demand was served were a reference to that person or the principal or beneficiary.
- (3) Subject to sub-paragraph (4), where a notice is served under sub-paragraph (1) then, unless the authority by further notice served on the tenant or licensee otherwise direct, it shall operate to transfer to the authority the right to recover, receive and give a discharge for the rent or sums in the nature of rent.
- (4) The right of the authority to recover, receive and give a discharge for any rent or sums in the nature of rent by virtue of this paragraph shall be postponed to any right in respect of that rent or those sums which may at any time be vested in a superior landlord by virtue of a notice under section 6 of the Law of Distress Amendment Act 1908.

#### *Expenses and interest to be a charge on the premises*

- 7 (1) The expenses recoverable by the authority, together with the interest accrued due, are, until recovered, a charge on the premises to which the notice related.

*Status: Point in time view as at 01/10/1997.*

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- (2) The charge takes effect when the demand for the expenses and interest becomes operative.
- (3) The authority have for the purpose of enforcing the charge the same powers and remedies, under the <sup>M15</sup>Law of Property Act 1925 and otherwise, as if they were mortgagees by deed having powers of sale and lease, of accepting surrenders of leases and of appointing a receiver.
- (4) The power of appointing a receiver is exercisable at any time after the expiration of one month from the date when the charge takes effect.

**Marginal Citations**

**M15** 1925 c. 20.

*Recovery of expenses and interest from other persons profiting from execution of works*

- 8 (1) This paragraph applies only to notices under section 352, . . . <sup>F146</sup> or 372 (notices relating to houses in multiple occupation).
- (2) If the authority apply to the county court and satisfy the court that—
- (a) the expenses and interest have not been and are unlikely to be recovered, and
  - (b) some person is profiting by the execution of the works in respect of which the expenses were incurred to obtain rents or other payments which would not have been obtainable if the number of persons living in the premises was limited to that appropriate for the premises in their state before the works were executed,
- the court may, if satisfied that that person has had proper notice of the application, order him to make such payments to the authority as may appear to the court to be just.

**Textual Amendments**

**F146** Figure repealed by [Local Government and Housing Act 1989 \(c. 42, SIF 61\)](#), s. 194(4), **Sch. 12 Pt. II**

SCHEDULE 11

. . . <sup>F147</sup>

**Textual Amendments**

**F147** [Sch. 11](#) repealed by [Local Government and Housing Act 1989 \(c. 42, SIF 61\)](#), ss. 165(1)(b), 194(4), **Sch. 9 Pt. II para. 28, Sch. 12 Pt. II**



*Status: Point in time view as at 01/10/1997.*

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## SCHEDULE 12

F148  
. . .

### Textual Amendments

**F148** Sch. 12 repealed by Local Government and Housing Act 1989 (c. 42, SIF 61), s. 194(4), Sch. 12 Pt. II (in force 1.3.1990 but has no effect for financial year beginning before 1.4.1990)

## SCHEDULE 13

Sections 384, 386, 389, 393 and 394.

### FURTHER PROVISIONS RELATING TO CONTROL ORDERS UNDER PART XI

#### PART I

#### MANAGEMENT SCHEMES

##### *Contents of management scheme*

- 1 (1) The scheme shall give particulars of all works which, in the opinion of the local housing authority, they would, if a control order were not in force, have required to be carried out under any provision of this Part, or under any other enactment relating to housing or public health, and which, in their opinion, constitute works of capital expenditure.
- (2) The scheme shall include an estimate of the costs of carrying out the works of which particulars are given in the scheme.
- (3) The scheme shall specify what, in the opinion of the authority, is the highest number of individuals or households who should live in the house from time to time, having regard to—
  - (a) the considerations set out in section 352(1) (matters relevant to fitness of house for number of occupants), and
  - (b) the existing condition of the house and its future condition as the works progress which the authority carry out in the house.
- (4) The scheme shall include an estimate of the balance which will from time to time accrue to the authority after deducting from the rent or other payments received by the authority from persons occupying the house—
  - (a) the compensation payable by the authority to the dispossessed proprietor under section 389 and Part II of this Schedule, and
  - (b) all expenditure, other than that of which particulars are given under subparagraph (2), incurred by the authority in respect of the house while the control order is in force.

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*The estimate in the scheme of surpluses on revenue account*

- 2
- (1) References in this Schedule to the surpluses on revenue account as settled by the scheme are to the amount included in the scheme by way of an estimate under paragraph 1(4), subject to any variation of the scheme made by the local housing authority or on an appeal or application to the court.
  - (2) In paragraph 1(4), and elsewhere in this Schedule, “rent or other payments”, in relation to payments received by the local housing authority from persons occupying a house subject to a control order, means rent or other payments so received—
    - (a) under leases or licences, or
    - (b) in respect of furniture to which section 383(1) applies (furniture comprised in furnished letting of which right to possession vests in authority).
  - (3) In paragraph 1(4), and elsewhere in this Schedule, references to expenditure incurred by the local housing authority in respect of a house subject to a control order include, in a case where the authority—
    - (a) require persons living in the house to vacate their accommodation for a period while the authority are carrying out works in the house, and
    - (b) provide housing accommodation for those persons for any part of that period or defray all or any part of the expenses incurred by or on behalf of those persons removing from and returning to the house,
 the net cost to the authority in so providing housing accommodation and the sums so defrayed by the authority.

*Appeal against scheme*

- 3
- (1) A person having an estate or interest in a house to which a control order relates may, within six weeks from the date on which a management scheme relating to the house was served in accordance with section 386, or such longer period as the local housing authority may in writing allow, appeal to the county court against the scheme.
  - (2) The appeal may be on any of the following grounds—
    - (a) that, having regard to the condition of the house and to the other circumstances, any of the works of which particulars are given in the scheme (whether already carried out or not) are unreasonable in character or extent, or are unnecessary;
    - (b) that any of the works do not involve expenditure which ought to be regarded as capital expenditure;
    - (c) that the number of individuals or households living in the house, as specified by the local housing authority in the scheme, is unreasonably low;
    - (d) that the estimate of the surpluses on revenue account in the scheme is unduly low on account of assumptions made by the authority as to matters within their control (for example, as to the rents charged by them).
  - (3) On an appeal the court may, as it thinks fit, confirm or vary the scheme.
  - (4) Proceedings on an appeal against a scheme shall, so far as practicable, be combined with proceedings on any appeal under section 384 against the control order itself;

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and if on such an appeal the court decides to revoke the control order, the court shall not proceed with any appeal against the scheme.

*Expenditure on works to be set against surpluses on revenue account*

- 4 (1) An account shall be kept by the local housing authority for the period during which the control order is in force showing—
- (a) the surpluses on revenue account as settled by the scheme, and
  - (b) the expenditure incurred by the authority in carrying out works of which particulars were given in the scheme;
- and balances shall be struck in the account at half-yearly intervals so as to ascertain the amount of that expenditure which cannot be set off against those surpluses.
- (2) So far as, at the end of a half-yearly period, the expenditure is not so set off, it shall carry interest, at such reasonable rate as the authority may determine, until it is so set off or until the charge arising under paragraph 16 of this Schedule (recovery of expenditure when control order ceases to have effect) is satisfied.
- (3) So far as there is a sum out of the surpluses on revenue account not required to meet expenditure incurred by the authority, it shall go to meet interest under subparagraph (2).

*Variation or review of surpluses on revenue account as settled by the scheme*

- 5 The local housing authority may at any time vary a scheme in such a way as to increase the amount of the surpluses on revenue account as settled by the scheme for all or any periods, including past periods.
- 6 (1) The local housing authority, or a person having an estate or interest in the house, may at any time apply to the county court for a review of the surpluses on revenue account as settled by the scheme.
- (2) On such an application the court shall take into consideration—
- (a) whether in the period since the control order came into force the actual balances mentioned in paragraph 1(4) have exceeded, or been less than, the surpluses on revenue account as settled by the scheme, and
  - (b) whether there has been any change in circumstances such that the number of persons or households who should live in the house, or the amount of the rents and other payments receivable by the local housing authority from persons occupying the house, ought to be greater or less than was originally estimated.
- (3) The court may on such an application, as it thinks fit, confirm or vary the scheme (but not so as to affect the provisions of the scheme relating to the works), and may vary the surpluses on revenue account as settled by the scheme for all or any period, including past periods.

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## PART II

### COMPENSATION PAYABLE TO DISPOSSESSED PROPRIETOR

#### *Rate of compensation*

- 7 The compensation payable by the local housing authority to the dispossessed proprietor in pursuance of section 389(1)(a) shall be at an annual rate equal to
- [<sup>F149</sup>(a) in a case where the gross value of the house was shown in the valuation list on the date a control order made before 1st April 1990 came into force,] one half of the gross value of the house multiplied by the appropriate multiplier [<sup>F150</sup>in accordance with paragraphs 8 to 13; and
  - (b) in any other case, one half of the rental value of the house in accordance with paragraph 13A.]

#### **Textual Amendments**

**F149** Sch. 13 Pt. II para. 7(a) inserted by S.I. 1990/434, reg. 2, Sch. para. 24(a)

**F150** Words beginning “in accordance with” and Sch. 13 Pt. II para. 7(b) inserted by S.I. 1990/434, reg. 2, Sch. para. 24(b)

#### *Ascertainment of gross value of house*

- 8 Subject to the following provisions, the gross value of a house for the purposes of this Part of this Schedule is its gross value for rating purposes as shown in the valuation list on the date when the control order comes into force.
- 9 (1) If the house forms part only of a hereditament, the gross value of the house is such proportion of the gross value shown in the valuation list for that hereditament as may be agreed in writing between the local housing authority and the person claiming compensation.
- (2) If any dispute arises under sub-paragraph (1), the authority or the person claiming compensation may by means of a reference in writing submit the dispute for decision by the district valuer.
- 10 If the house consists or forms part of more than one hereditament, the gross value shall be ascertained by determining the gross value of each hereditament or part as if it were a separate house and aggregating the gross values so determined.
- 11 (1) The gross value of a hereditament whose rateable value is by virtue of subsection (1) of section 19 of the <sup>M16</sup>General Rate Act 1967 to be taken to be its net annual value ascertained in accordance with subsections (2) to (4) of that section shall be taken to be its corresponding gross value, that is to say, the gross value which would be equivalent to the net annual value shown in the valuation list if there were deducted any amounts which by virtue of an order made or falling to be treated as made under

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section 19(2) of the General Rate Act 1967 would be deducted from the gross value of the hereditament if it had been required to be assessed to its gross value instead of its net annual value.

- (2) If more than one value is so ascertained to be the corresponding gross value, the highest value so ascertained shall be taken.

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

**C5** Sch. 13 Pt. II para. 11 restricted by Housing (Consequential Provisions) Act 1985 (c. 71, SIF 61), s. 5(1), Sch. 3 para. 4

**Marginal Citations**

**M16** 1967 c. 9.

- 12 Where after the date on which the control order comes into force—
- (a) the valuation list is altered so as to vary the gross value (or where paragraph 11 applies the net annual value) of the house or of the hereditament of which the house forms part, and
  - (b) the alteration has effect from a date before, or from the same date as, the control order came into force,
- compensation is payable as if the value shown in the list on the date when the control order came into force had been that shown in the list as altered.

*The appropriate multiplier*

- 13 (1) The appropriate multiplier for the purposes of this Part of this Schedule is that specified by order of the Secretary of State.
- (2) An order under this paragraph shall be made by statutory instrument which shall be subject to annulment in pursuance of a resolution of either House of Parliament.

*[<sup>F151</sup> Calculation of rental value]*

**Textual Amendments**

**F151** Sch. 13 Pt. II para. 13A inserted by S.I. 1990/434, reg. 2, Sch. para. 25

- 13A (1) The rental value of a house is an amount equal to the rent at which the house might reasonably be expected to let from year to year if the tenant undertook to pay all usual tenant's rates and taxes and the landlord undertook to bear the cost of the repairs and insurance and the other expenses, if any, necessary to maintain the house in a state to command that rent.
- (2) The amount referred to in sub-paragraph (1) shall be determined by the local housing authority as at the date on which the control order comes into force; and any dispute

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arising in respect of that determination shall be referred in writing for decision by the district valuer.

*Apportionment of compensation between proprietors of different parts of house*

- 14 (1) If different persons are the dispossessed proprietors of different parts of the house, the compensation payable shall be apportioned between them according to the proportions of the gross value [<sup>F152</sup>, or as the case may be, rental value] of the house properly attributable to the parts of the house in which they are respectively interested.
- (2) If they do not agree on the apportionment they shall refer the matter, in writing, for determination by the district valuer.

**Textual Amendments**

**F152** Words inserted by [S.I. 1990/434, reg. 2, Sch. para. 26](#)

**PART III**

CESSATION OF CONTROL ORDER

*General consequences of cessation of control order*

- 15 (1) On and after the date on which a control order ceases to have effect—
- (a) a lease, licence or agreement in which the local housing authority were substituted for another party by virtue of section 382 (effect of order on persons occupying house) has effect with the substitution of the original party, or his successor in title, for the authority,
  - (b) an agreement in the nature of a lease or licence created by the local housing authority has effect with the substitution of the dispossessed proprietor for the authority.
- (2) If the dispossessed proprietor is a lessee, nothing in a superior lease imposes liability on him, or on a superior lessee, in respect of anything done in pursuance of the terms of an agreement in which the dispossessed proprietor is substituted for the local housing authority by virtue of this paragraph.
- (3) This paragraph applies in all circumstances in which a control order ceases to have effect.
- 16 (1) When a control order ceases to have effect, a final balance shall be struck in the account mentioned in paragraph 4(1) and the expenditure reasonably incurred by the local housing authority in carrying out works of which particulars were given in the management scheme, together with interest at such reasonable rate as the authority may determine is, so far as not set off against the surpluses on revenue account as settled by the scheme, a charge on the premises.

*Status: Point in time view as at 01/10/1997.*

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- (2) The premises subject to the charge include any part of the premises excluded from the provisions of the order under section 380 (modification of order where proprietor resides in part of the house).
- (3) The local housing authority have for the purposes of enforcing the charge all the same powers and remedies, under the <sup>M17</sup>Law of Property Act 1925 and otherwise, as if they were mortgagees by deed having powers of sale and lease, of accepting surrender of leases and of appointing a receiver.
- (4) The power of appointing a receiver is exercisable at any time after the expiration of one month from the date when the charge takes effect.
- (5) References in this paragraph to the provisions of the management scheme include reference to the provisions as varied; and if, when the control order ceases to have effect, proceedings are pending which may result in a variation of the scheme—
  - (a) those proceedings may be continued until finally determined, and
  - (b) if the charge under this paragraph is enforced before the final determination of those proceedings, the local housing authority shall account for any money recovered by enforcing the charge which, having regard to the decision in the proceedings as finally determined, they ought not to have recovered.
- (6) This paragraph does not apply—
  - (a) where a control order is revoked by the county court on an appeal against the order, or
  - (b) where a control order ceases to have effect under Part IV of this Schedule (control order followed by compulsory purchase order),but applies in every other case where a control order ceases to have effect (including the case where the order is revoked by a court on appeal from the county court).

#### **Marginal Citations**

**M17** 1925 c. 20.

#### *Revocation of order by county court on appeal against making of order*

- 17
- (1) The provisions of this paragraph apply where a control order is revoked by the county court on an appeal against the control order.
  - (2) The court shall take into consideration whether the state or condition of the house is such that action ought to be taken by the local housing authority under any other provision of this Part, and shall approve the taking of any of the following steps accordingly, that is—
    - (a) the serving of a notice under section 352, 366 or 372 (notices requiring the execution of works),
    - (b) the giving of a direction under section 354 (direction limiting number of occupants of house), or
    - (c) the making of an order under section 370 (order applying management code to house);and no appeal lies against a notice or order so approved.

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- (3) If the local housing authority are in the course of carrying out works in the house which, if a control order were not in force, the authority would have power to require some other person to carry out under any provision of this Part or under any other enactment relating to housing or public health, and on the hearing of the appeal the court is satisfied that the carrying out of the works could not be postponed until after the determination of the appeal by the county court because the works were urgently required for the sake of the safety, welfare or health of persons living in the house, or of other persons, the court may suspend the revocation of the control order until the works have been completed.
  - (4) The county court shall fix the date on which the control order is to be revoked without regard to whether an appeal has been or may be brought against the decision of the county court; but that does not prevent the local housing authority from bringing such an appeal.
  - (5) The court may authorise the local housing authority to create under section 381(1)(c) (power to create interests akin to leases) interests which expire, or which the dispossessed proprietor can terminate, within six months from the time when the control order ceases to have effect, being interests which, notwithstanding section 381(2), are for a fixed term exceeding one month or are terminable by notice to quit (or an equivalent notice) of more than four weeks.
- 18
- (1) If a control order is revoked by the county court on an appeal against the order, the local housing authority shall pay to the dispossessed proprietor the balances, which from time to time accrued to the authority after deducting from the rent or other payments received by the authority from persons occupying the house—
    - (a) the compensation payable by the authority to the dispossessed proprietor, and
    - (b) all expenditure (other than capital expenditure) incurred by the authority in respect of the house while the control order was in force.
  - (2) If the court is satisfied that the balances which the local housing authority are under sub-paragraph (1) liable to pay to the dispossessed proprietor are unduly low for any reason within the control of the authority, having regard to—
    - (a) the desirability of observing the standards of management contained in regulations made under section 369 (the management code), and
    - (b) the other standards which the authority ought to observe as to the number of persons living in the house and the rents which they ought to charge,

the court shall direct that, for the purposes of the authority's liability to the dispossessed proprietor under this paragraph, the balances under sub-paragraph (1) shall be deemed to be such greater sums as the court may direct.
  - (3) The court shall not under sub-paragraph (2) give a direction which will afford to the dispossessed proprietor a sum greater than what he may, in the opinion of the court, have lost by the making of the control order.
  - (4) If different persons are dispossessed proprietors of different parts of the house, sums payable under this paragraph by the local housing authority shall be apportioned between them in the manner provided by paragraph 14.



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- 19 (1) The provisions of this paragraph have effect for the purpose of enabling the local housing authority to recover capital expenditure incurred in carrying out works in the house in the period before the control order is revoked on an appeal against the order.
- (2) On the hearing of the appeal the authority may apply to the court for the approval of those works on the ground that—
- (a) they were works which, if a control order had not been in force, the authority could have required some person to carry out under any provision of this Part or under any other enactment relating to housing or public health, and
  - (b) the works could not be postponed until after the determination of the appeal by the county court because they were urgently required for the sake of the safety, welfare or health of persons living in the house, or other persons.
- (3) Expenditure reasonably incurred by the authority in carrying out works so approved—
- (a) may be deducted by the authority out of the balances which they are liable to pay to the dispossessed proprietor under paragraph 18, and
  - (b) so far as not so deducted, is a charge on the premises and on all estates and interests in the premises;
- and the premises subject to the charge include any part of the premises which was excluded from the provisions of the order under section 380 (modification of order where proprietor resides in part of the house).
- (4) The charge takes effect as from the date when the control order is revoked and the expenditure so charged carries interest from that date at such reasonable rate as the authority may determine.
- (5) The local housing authority have for the purposes of enforcing the charge all the same powers and remedies, under the <sup>M18</sup>Law of Property Act 1925 and otherwise, as if they were mortgagees by deed having powers of sale and lease, of accepting surrenders of leases and of appointing a receiver.
- (6) The power of appointing a receiver is exercisable at any time after the expiration of one month from the date when the charge takes effect.

**Marginal Citations**

**M18** 1925 c. 20.

*Revocation of control order on further appeal*

- 20 (1) If on an appeal from a decision of the county court confirming a control order it is determined that the control order should be revoked, but the local housing authority satisfy the court hearing the appeal—
- (a) that they are in the course of carrying out works in the house which, if a control order were not in force, they would have power to require some person to carry out under any provision of this Part of this Act or under any other enactment relating to housing or public health, and
  - (b) that the carrying out of the works could not be postponed until the time when the control order could no longer be revoked by order of any court

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on an appeal against the order because the works were urgently required for the sake of safety, welfare or health of persons living in the house, or other persons,

the court may suspend the revocation of the control order until the works have been completed.

- (2) If on the hearing by the county court of an appeal against a control order the appellant indicates—
- (a) that an appeal may be brought against any decision of the county court confirming the order, and
  - (b) that certain works ought not, unless the control order is confirmed on the further appeal, to be works the cost of which can be recovered by the local housing authority under paragraph 4 or 16,

the county court may direct that those works shall not be works of which the cost may be so recovered if they are begun before the time when the further appeal is finally determined and the control order is not confirmed on that appeal.

*Revocation of control order by county court on appeal against refusal to revoke*

- 21 (1) The provisions of this paragraph apply where a control order is revoked by the county court on an appeal under section 393 (appeal against refusal of local housing authority to revoke order).
- (2) If the local housing authority represent to the court that revocation of the control order would unreasonably delay completion of works of which particulars were given in the management scheme, and which the authority have begun to carry out the court shall take the representations into account and may, if it thinks fit, revoke the control order as from the time when the works are completed.
- (3) The court may make an order under which the revocation does not take effect until the time for appealing against the decision of the county court has expired and any appeal brought within that time has been finally determined.
- (4) The court may approve the taking of any of the following steps, to take effect on the revocation of the control order, that is—
- (a) the serving of a notice under section 352, . . . <sup>F153</sup> or 372 (notices requiring the execution of works), [<sup>F154</sup> or]
  - (b) the giving of a direction under section 354 (direction limiting number of occupants of house), . . . <sup>F155</sup>
  - (c) . . . . . <sup>F156</sup>
- and no appeal lies against a notice . . . <sup>F157</sup> so approved.
- (5) Where the house will on the revocation of the control order be charged with any sum in favour of the local housing authority by virtue of any provision of this Schedule, the court may make it a condition of the revocation of the order that the appellant first pays off to the authority that sum or such part of that sum as the court may specify.
- (6) The court may authorise the local housing authority to create under section 381(1) (c) (power to create interests akin to leases) interests which expire, or which the dispossessed proprietor can terminate, within six months from the time when the control order ceases to have effect, being interests which, notwithstanding

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section 381(2), are for a fixed term exceeding one month or are terminable by notice to quit (or an equivalent notice of more than four weeks.

#### Textual Amendments

- F153** Figure repealed by [Local Government and Housing Act 1989 \(c. 42, SIF 61\)](#), ss. 165(1)(c), 194(4), Sch. 9 Pt. III para. 71(a), **Sch. 12 Pt. II**
- F154** Word inserted by [Local Government and Housing Act 1989 \(c. 42, SIF 61\)](#), s. 165(1)(c), **Sch. 9 Pt. III para. 71(b)**
- F155** Word repealed by [Local Government and Housing Act 1989 \(c. 42, SIF 61\)](#), ss. 165(1)(c), 194(4), Sch. 9 Pt. III para. 71(b), **Sch. 12 Pt. II**
- F156** Sch. 13 Pt. III para. 21(4)(c) repealed by [Local Government and Housing Act 1989 \(c. 42, SIF 61\)](#), ss. 165(1)(c), 194(4), Sch. 9 Pt. III para. 71(c), **Sch. 12 Pt. II**
- F157** Words repealed by [Local Government and Housing Act 1989 \(c. 42, SIF 61\)](#), ss. 165(1)(c), 194(4), Sch. 9 Pt. III para. 71(d), **Sch. 12 Pt. II**

## PART IV

### CONTROL ORDER FOLLOWED BY COMPULSORY PURCHASE ORDER

#### *Introductory*

- 22 The provisions of this Part of this Schedule apply where the local housing authority make a control order with respect to a house and within [<sup>F158</sup>eight weeks] of the making of that order make a compulsory purchase order for the acquisition of the house under Part II of this Act (provision of housing accommodation).

#### Textual Amendments

- F158** Words in [Sch. 13 Pt. IV para. 22](#) substituted (3.3.1997) by [1996 c. 52, s. 79\(3\)](#); S.I. 1997/350, **art. 2**

#### *Preparation and service of management scheme*

- 23 (1) The local housing authority need not prepare or serve a management scheme under section 386 until they are notified by the Secretary of State of his decision to confirm or not to confirm the compulsory purchase order.
- (2) The time within which copies of the scheme are to be served under section 386 is—
- if the Secretary of State's decision is not to confirm the compulsory purchase order, eight weeks from the date on which that decision is notified to the authority;
  - if the Secretary of State's decision is to confirm the compulsory purchase order, eight weeks from the time at which the compulsory purchase order becomes operative.

*Status: Point in time view as at 01/10/1997.*

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*Control order ceases to have effect on acquisition of house*

- 24 Where the compulsory purchase order is confirmed by the Secretary of State, the control order ceases to have effect—
- (a) if the local housing authority enter into a contract to purchase the house, on the date when the contract is made;
  - (b) if the local housing authority, in pursuance of a notice served under section 11 of the <sup>M19</sup>Compulsory Purchase Act 1965, enter and take possession of the house or serve a notice under section 583 of this Act (power to take possession without displacing tenant), on the date when the notice under section 11 is served.

**Marginal Citations**

**M19** 1965 c. 56.

*Balances payable to dispossessed proprietor*

- 25 (1) Where a control order ceases to have effect by virtue of paragraph 24, the local housing authority shall pay to the dispossessed proprietor the balance which from time to time accrued to the authority after deducting from the rent or other payments received by them from persons occupying the house—
- (a) the compensation payable to him by the authority, and
  - (b) all expenditure (other than capital expenditure) incurred by the authority in respect of the house while the control order was in force.
- (2) The local housing authority shall give notice to the dispossessed proprietor informing him of the balances which they propose to pay him under this paragraph and of his right to appeal.
- (3) The dispossessed proprietor may, within 21 days of the service of the notice or such longer period as the local housing authority may in writing allow, appeal to the county court.
- (4) If on such an appeal the court is of opinion that the balances are unduly low for any reason within the control of the local housing authority, having regard to—
- (a) the desirability of observing the standards of management contained in regulations made under section 369 (the management code), and
  - (b) the other standards which the authority ought to observe as to the number of persons living in the house and the rents which they ought to charge,
- the court shall direct that for the purposes of the authority's liability to the dispossessed proprietor under this paragraph the balances shall be deemed to be such greater amount as the court may direct.
- (5) The court shall not under sub-paragraph (4) give a direction which will afford to the dispossessed proprietor a sum greater than the amount which, in the opinion of the court, he may have lost by the making of the control order.

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- (6) If different persons are dispossessed proprietors of different parts of the house, sums payable under this paragraph shall be apportioned between them in the manner provided by paragraph 14.

*Recovery of capital expenditure incurred by local housing authority*

- 26 (1) The provisions of this paragraph have effect for the purpose of enabling the local housing authority to recover capital expenditure incurred in carrying out works in the house in the period before the control order ceases to have effect.
- (2) The local housing authority may, by a notice served on the dispossessed proprietor, specify such works as being works—
- (a) which the authority could, if the control order were not in force, have required some person to carry out under any provision of this Part of this Act or under any other enactment relating to housing or public health, and
  - (b) which could not be postponed because they were urgently required for the sake of the safety, welfare or health of persons living in the house, or other persons;
- and such a notice shall inform the dispossessed proprietor of his right to appeal.
- (3) The dispossessed proprietor may, within 21 days of the service of the notice or such longer period as the local housing authority may in writing allow, appeal to the county court which may confirm, vary or quash the notice.
- (4) Expenditure reasonably incurred by the local housing authority in carrying out the works specified in a notice under this paragraph (or specified in such a notice as varied on appeal) may be deducted by the authority from the balances which they are liable to pay to the dispossessed proprietor under paragraph 25.
- (5) So far as that expenditure exceeds those balances, it may, if the house is purchased compulsorily, be deducted from the amount payable as compensation, and accordingly any interest payable on that amount shall be calculated after allowing for the deduction.

SCHEDULE 14

F159

**Textual Amendments**

**F159** Sch. 14 repealed and superseded by [Local Government and Housing Act 1989 \(c. 42, SIF 61\)](#), ss. 74(6), 88(3), 194(4), [Sch. 12 Pt. II](#)

*Status: Point in time view as at 01/10/1997.*

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## SCHEDULE 15

Section 432.

### SUPERSEDED CONTRIBUTIONS, GRANTS, SUBSIDIES, &C.

#### PART I

##### LOANS UNDER THE HOUSING (RURAL WORKERS) ACTS 1926 TO 1942

The <sup>M20</sup>Housing (Rural Workers) Acts 1926 to 1942, and any enactment so far as it relates to the rate of interest payable on a loan under those Acts, continue to have effect in relation to a loan made under section 2 of the Housing (Rural Workers) Act 1926 before 10th August 1972.

#### Marginal Citations

**M20** 1926 c. 56.

#### PART II

##### <sup>F160</sup>ANNUAL GRANTS FOR AGRICULTURAL HOUSING

#### Textual Amendments

**F160** Sch. 15 Pt. II heading substituted (1.10.1996) by 1996 c. 52, s. 222, **Sch. 18 Pt. II para. 6(3)**; S.I. 1996/2402, **art. 3**

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

**C6** Sch. 15 Pt. II restricted (1.10.1996) by 1996 c. 52, s. 222, **Sch. 18 Pt. II para. 6(1)**; S.I. 1996/2402, **art. 3**

*(s. 46 of the Housing (Financial Provisions) Act 1958)*

*[<sup>F161</sup> Annual grants by local housing authorities]*

#### Textual Amendments

**F161** Sch. 15 Pt. II para. 1 and cross-heading substituted (1.10.1996) by 1996 c. 52, s. 222, **Sch. 18 Pt. II para. 6(4)**; S.I. 1996/2402, **art. 3**

- <sup>F162</sup> (1) Annual grants shall, notwithstanding the abolition of exchequer contributions by paragraph 6(1) of Schedule 18 to the <sup>M21</sup>Housing Act 1996, continue to be payable by local housing authorities in respect of agricultural housing provided in pursuance of arrangements made under section 46 of the Housing (Financial Provisions) Act 1958.
- (2) Subject to the provisions of this Part of this Schedule, such annual grants are payable, in respect of any house as to which the Secretary of State originally undertook to make annual contributions under section 46 of the <sup>M22</sup>Housing (Financial Provisions) Act 1958, for the remainder of the 40 year period for which that undertaking was given.

*Status: Point in time view as at 01/10/1997.*

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- (3) The amount paid by way of annual grant to the owner of a house shall not be less than the amount of the last annual contribution paid by the Secretary of State in respect of the house.]

**Textual Amendments**

**F162** Sch. 15 Pt. II para. 1 and cross-heading substituted (1.10.1996) by 1996 c. 52, s. 222, Sch. 18 Pt. II para. 6(4); S.I. 1996/2402, art. 3

**Marginal Citations**

**M21** 1958 c. 42.

**M22** 1958 c. 42.

*[<sup>F163</sup> Conditions of payment of annual grant]*

**Textual Amendments**

**F163** Sch. 15 Pt. II para. 2 and cross-heading substituted (1.10.1996) by 1996 c. 52, s. 222, Sch. 18 Pt. II para. 6(5); S.I. 1996/2402, art. 3

- [<sup>F1642</sup> (1) It is a condition of the payment of a grant in respect of a house in any year that throughout the year the house—
- (a) is reserved for members of the agricultural population, and
  - (b) if let, is let at a rent not exceeding the limit applicable in accordance with the following provisions of this paragraph,
- and that in the opinion of the local housing authority all reasonable steps have been taken to secure the maintenance of the house in a proper state of repair during the year.]

**Textual Amendments**

**F164** Sch. 15 Pt. II para. 2 and cross-heading substituted (1.10.1996) by 1996 c. 52, s. 222, Sch. 18 Pt. II para. 6(5); S.I. 1996/2402, art. 3

- 3 (1) In the case of a house completed on or after 18th April 1946 the payment of a [<sup>F165</sup>grant] for any year during which the house is at any time occupied by a member of the agricultural population in pursuance of a contract of service and otherwise than as a tenant is also subject to the following condition.
- (2) The condition is that if the contract of service is terminated—
- (a) by less than four weeks' notice given by the employer, or
  - (b) by dismissal of the employee without notice, or
  - (c) by the death of either party,
- the employer or his personal representatives will permit the employee (or, in the case of his death, any person residing with him at his death) to continue to occupy the house free of charge from the determination of the contract until the expiration of a period of four weeks beginning with the date on which the notice is given, or, if the contract is determined otherwise than by notice, with the date on which it is determined.

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**Textual Amendments**

**F165** Word in **Sch. 15 Pt. II para. 3(1)** substituted (1.10.1996) by 1996 c. 52, s. 222, **Sch. 18 Pt. II para. 6(6)**; S.I. 1996/2402, **art. 3**

*Grants payable to owners by local housing authority*

[<sup>F166</sup>4 A grant shall not be made or shall be reduced, as the local housing authority think fit, if (before the grant is paid) the local housing authority are of the opinion that during the whole or the greater part of the period to which the payment of the grant is referable the house has not been available as a dwelling fit for habitation, unless the authority is satisfied that that could not with reasonable diligence have been achieved.]

**Textual Amendments**

**F166** **Sch. 15 Pt. II para. 4** substituted (1.10.1996) by 1996 c. 52, s. 222, **Sch. 18 Pt. II para. 6(7)**; S.I. 1996/2402, **art. 3**

*No further payments if house vests in local housing authority*

5 Where a house which has been provided under arrangements under section 46 of the <sup>M23</sup>Housing (Financial Provisions) Act 1958 becomes vested in the local housing authority making the arrangements, no further sums are payable by <sup>F167</sup>. . . the authority in respect of the house under this Part of this Schedule.

**Textual Amendments**

**F167** Words in **Sch. 15 Pt. II para. 5** omitted (1.10.1996) by virtue of 1996 c. 52, s. 222, **Sch. 18 Pt. II para. 6(8)**; S.I. 1996/2402, **art. 3**

**Marginal Citations**

**M23** 1958 c. 42.

*[<sup>F168</sup> Commutation of future annual grant]*

**Textual Amendments**

**F168** **Sch. 15 Pt. II para. 6** and cross-heading inserted (1.10.1996) by 1996 c. 52, s. 222, **Sch. 18 Pt. II para. 6(9)**; S.I. 1996/2402, **art. 3**

[<sup>F169</sup>6 (1) A local authority may make an offer in writing to the person who is for the time being the owner of a house as respects which annual grant is payable under this Part of this Schedule to pay a lump sum in lieu of—

- (a) the annual grant payable for the year in which the offer is accepted; and
- (b) any further payments of annual grant that would (apart from this paragraph) be payable for the remainder of the period for which the original



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arrangements under section 46 of the Housing (Financial Provisions) Act 1958 were made.

- (2) An owner may accept an offer made under this paragraph by notice in writing to the local housing authority.
- (3) Subject to sub-paragraph (4) below, where such an offer is accepted the local housing authority shall pay to the owner a lump sum calculated in such manner as the authority may determine.
- (4) A lump sum shall not be paid as respects a house unless the local housing authority are satisfied that the conditions in this Part of this Schedule have been observed throughout the year preceding the date on which the lump sum would otherwise be paid.
- (5) On payment of a lump sum under this paragraph to the owner of a house—
  - (a) no further annual grants under this Part of this Schedule shall be payable in respect of the house; and
  - (b) the conditions described in this Part of this Schedule shall cease to apply to the house.]

#### Textual Amendments

**F169** Sch. 15 Pt. II para. 6 and cross-heading inserted (1.10.1996) by 1996 c. 52, s. 222, Sch. 18 Pt. II para. 6(9); S.I. 1996/2402, art. 3

### PART III

#### CONTRIBUTIONS FOR IMPROVEMENT OF DWELLINGS BY HOUSING AUTHORITIES

*(s. 9 of the Housing (Financial Provisions) Act 1958;  
s. 13 of the House Purchase and Housing Act 1959)*

- 1 (1) Subject to sub-paragraph (2), contributions by the Secretary of State to a local authority remain payable—
  - (a) under section 9 of the <sup>M24</sup>Housing (Financial Provisions) Act 1958 (contributions over a period of 20 years towards the cost to local authorities of works of conversion or improvement) in pursuance of proposals approved before 25th August 1969, and
  - (b) under section 13 of the <sup>M25</sup>House Purchase and Housing Act 1959 (contributions over a period of 20 years in respect of standard amenities provided by local authorities), in pursuance of applications approved before 25th August 1969.
- (2) No contribution is payable under this paragraph in respect of a dwelling within a local housing authority's Housing Revenue Account or a new town corporation's housing account.
- (3) The contributions are payable at such times and in such manner as the Treasury may direct, and subject to such conditions as to records, certificates, audit or otherwise as the Secretary of State may, with the approval of the Treasury, impose.

*Status: Point in time view as at 01/10/1997.*

*Changes to legislation: Housing Act 1985 is up to date with all changes known to be in force on or before 01 July 2024. There are changes that may be brought into force at a future date. Changes that have been made appear in the content and are referenced with annotations. (See end of Document for details)*

- (4) The amount or duration of any contribution payable under this paragraph to which section 25(2) of the Housing (Financial Provisions) Act 1958 applied immediately before the commencement of this Act (payments arising out of the exercise of housing powers by county councils) may be reduced by the the Secretary of State at his discretion.

**Marginal Citations**

**M24** 1958 c. 42.

**M25** 1959 c. 33.

*(ss. 17 to 20 of the Housing Act 1969)*

- 2 (1) Contributions by the Secretary of State to a housing authority remain payable under section 18 or 19 of the <sup>M26</sup>Housing Act 1969 (improvement contributions or standard contributions payable over a period of 20 years for dwellings converted or improved by the authority) in pursuance of applications approved before 2nd December 1974.
- (2) The contributions are payable at such times and in such manner as the Treasury may direct, and subject to such conditions as to records, certificates, audit or otherwise as the Secretary of State may, with the approval of the Treasury, impose.
- (3) No contribution is payable under this paragraph in respect of a dwelling within a local housing authority's Housing Revenue Account or a new town corporation's housing account.
- (4) The amount or duration of any contribution payable under this paragraph to which section 25(2) of the <sup>M27</sup>Housing (Financial Provisions) Act 1958 Act applied immediately before the commencement of this Act (payments arising out of the exercise of housing powers by county councils) may be reduced by the Secretary of State at his discretion.

**Marginal Citations**

**M26** 1969 c. 33.

**M27** 1958 c. 42.

*(s. 79 of the Housing Act 1974)*

- 3 (1) Subject to sub-paragraph (2), contributions by the Secretary of State to a housing authority remain payable under section 79 of the <sup>M28</sup>Housing Act 1974 (improvement contributions payable over a period of 20 years) in pursuance of applications approved before 8th August 1980.
- (2) No contribution is payable under this paragraph in respect of dwellings within a local housing authority's Housing Revenue Account or a new town corporation's housing account.
- (3) The contributions are payable subject to such conditions as to records, certificates, audit or otherwise as the Secretary of State may, with the approval of the Treasury, impose.

*Status: Point in time view as at 01/10/1997.*

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**Marginal Citations**

**M28** 1974 c. 44.

**PART IV**

TOWN DEVELOPMENT SUBSIDY

*(s. 9 of the Housing Finance Act 1972; s. 5 of the Housing Rents and Subsidies Act 1975)*

*Transitional town development subsidy*

- 1 (1) Transitional town development subsidy is payable each year, subject to the following provisions of this Part of this Schedule, to a sending authority to whom town development subsidy under section 9 of the <sup>M28</sup>Housing Finance Act 1972 was payable for the year 1974-75; and the amount of the subsidy, subject to the following provisions of this Schedule, is the amount of town development subsidy payable to the authority for the year 1974-75.
- (2) The subsidy is payable for the credit of the sending authority's general rate fund.

**Marginal Citations**

**M29** 1972 c. 47.

- 2 (1) The subsidy is payable by the Secretary of State at such times and in such manner as the Treasury may direct, and subject to such conditions as to records, certificates, audit or otherwise as the Secretary of State may, with the approval of the Treasury, impose.
- (2) The payment of subsidy is subject to the making of a claim for it in such form and containing such particulars as the Secretary of State may from time to time determine.
- (3) The amount of the subsidy for any year shall be calculated to the nearest pound, by disregarding an odd amount of £0·50, or less, and by treating an odd amount exceeding £0·50 as a whole pound.
- (4) A direction or determination under this paragraph may contain supplementary or incidental provisions and may be made to apply to a specified description of authorities or to a specified authority.

*Reduction or discontinuance of subsidy*

- 3 (1) The Secretary of State may reduce or discontinue a sending authority's transitional town development subsidy if a dwelling in respect of which it is payable—
  - (a) has been demolished,
  - (b) has been disposed of by the receiving authority,
  - (c) is not fit to be used, or is not being used, for letting as a dwelling, or
  - (d) in any other circumstances he considers relevant.

*Status: Point in time view as at 01/10/1997.*

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- (2) The Secretary of State may from time to time determine for the purposes of sub-paragraph (1)—
- (a) the circumstances in which a dwelling is to be treated as having been demolished or disposed of,
  - (b) the circumstances in which a dwelling is to be treated as not fit to be used, or as not being used, for letting as a dwelling,
  - (c) in which circumstances other than those mentioned in sub-paragraph (1)(a) to (c) an authority’s transitional town development subsidy is to be reduced or discontinued, and
  - (d) the method by which any calculation is to be made;
- and the power conferred by paragraph (b) above also includes power to determine what constitutes letting as a dwelling.
- (3) A determination under this paragraph may contain supplementary or incidental provisions and may be made to apply to a specified description of authorities or dwellings or to a specified authority.

*Payments to receiving authority*

- 4 (1) Where transitional town development subsidy is payable, the sending authority shall for each year pay to the receiving authority four times the amount of the sending authority’s transitional town development subsidy attributable to dwellings of the receiving authority which are available in that year for tenants from the sending authority.
- (2) The payments are for the credit of the receiving authority’s general rate fund.

*Communication of subsidy and payments to receiving authority*

- 5 (1) The Secretary of State may, with the agreement of the sending authority and the receiving authority, determine—
- (a) to commute further payments of transitional town development subsidy into a single payment of an amount to be determined by him or calculated in a manner determined by him, and
  - (b) to commute the corresponding payments by the sending authority to the receiving authority under paragraph 4 into a single payment of four times that payable under paragraph (a).
- (2) In making a determination the Secretary of State shall make such allowance, if any, as appears to him appropriate for circumstances in which, if there were no commutation, his power under paragraph 3 to reduce or discontinue the sending authority’s transitional town development subsidy might be exercised.

*Meaning of “receiving authority”*

- 6 In this part of this Schedule “receiving authority” means the council of a receiving district within the meaning of the <sup>M30</sup>Town Development Act 1952.

**Marginal Citations**

**M30** 1952 c. 54.

*Status: Point in time view as at 01/10/1997.*

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## SCHEDULE 16

Section 438.

### LOCAL AUTHORITY MORTGAGE INTEREST RATES

#### *The rate of interest*

- 1 (1) The rate of interest shall be whichever is for the time being the higher of—
- (a) the standard national rate, or
  - (b) the applicable local average rate.
- (2) The rate shall be capable of being varied by the local authority whenever a change in either or both of those rates requires it; and the amount of the periodic payments shall be capable of being changed accordingly.

#### *The standard national rate*

- 2 The standard national rate is the rate for the time being declared as such by the Secretary of State after taking into account interest rates charged by building societies in the United Kingdom and any movement in those rates.

#### *The local average rate*

- 3 A local authority shall for every period of six months declare, on a date falling within the month immediately preceding that period—
- (a) a rate applicable to the advances and transfers mentioned in section 438(1) (a) and (c) (advances under section 435 and transfers of mortgages under section 442), and
  - (b) a rate applicable to sums left outstanding as mentioned in section 438(1) (b) (sums left outstanding on disposal of house).
- [<sup>F170</sup>4 (1) The rate declared under paragraph 3(a) or (b) shall be a rate calculated in such manner as the Secretary of State may determine.
- (2) A determination under this paragraph—
- (a) may make different provision for different cases or descriptions of cases, including different provision for different areas, for different local authorities or for different descriptions of local authorities; and
  - (b) may be varied or withdrawn by a subsequent determination.
- (3) As soon as practicable after making a determination under this paragraph, the Secretary of State shall send a copy of the determination to the local authority or authorities to which it relates.]

#### **Textual Amendments**

**F170** Sch. 16 para. 4 substituted by [Local Government and Housing Act 1989 \(c. 42, SIF 61\), s. 194\(1\)](#), [Sch. 11 para. 88](#)

#### *Variation of rate of interest*

- 5 (1) Where on a change of the standard national rate or the applicable local average rate a rate of interest is capable of being varied, the local authority shall vary it.

*Status: Point in time view as at 01/10/1997.*

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- (2) The authority shall serve on the person liable to pay the interest notice in writing of the variation not later than two months after the change.
  - (3) The variation shall take effect with the first payment of interest due after a date specified in the notice, which—
    - (a) if the variation is a reduction, shall be not later than one month after the change, and
    - (b) if the variation is an increase, shall not be earlier than one month nor later than three months after the service of the notice.
- 6
- (1) On a variation of the rate of interest, the local authority may make a corresponding variation of the periodic payments.
  - (2) The authority shall do so if the period over which the repayment of principal is to be made would otherwise be reduced below the period fixed when the mortgage was effected.
  - (3) The variation shall be notified and take effect together with the variation of the rate of interest.

*Directions by Secretary of State*

- 7
- (1) The Secretary of State may by notice in writing to a local authority direct it to treat a rate specified in the notice as being the higher of the two rates mentioned in paragraph 1, either for a period specified in the notice or until further notice; and the preceding provisions of this Schedule have effect accordingly.
  - (2) A direction so given may be varied or withdrawn by a further notice in writing.

SCHEDULE 17

Section 452.

VESTING OF MORTGAGED HOUSE IN AUTHORITY ENTITLED TO EXERCISE POWER OF SALE

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

C7 Sch. 17 modified by S.I. 1986/797, regs. 20, 22

*Vesting of house with leave of court*

- 1
- (1) The authority may, if the county court gives it leave to do so, by deed vest the house in itself—
    - (a) for the estate and interest in the house which is the subject of the mortgage and which the authority would be authorised to sell or convey on exercising its power of sale, and
    - (b) freed from all estates, interests and rights to which the mortgage has priority. but subject to all estates, interests and rights which have priority to the mortgage.
  - (2) Where application for leave under this paragraph is made to the county court, the court may adjourn the proceedings or postpone the date for the execution of the authority's deed for such period as the court thinks reasonable.

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*Status: Point in time view as at 01/10/1997.*

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- (3) An adjournment or postponement may be made subject to such conditions with regard to payment by the mortgagor of any sum secured by the mortgage or the remedy of any default as the court thinks fit; and the court may from time to time vary or revoke any such conditions.

#### *Effect of vesting*

- 2 (1) On the vesting of the house the authority's mortgage term or charge by way of legal mortgage, and any subsequent mortgage term or charge, shall merge or be extinguished as respects the house.
- (2) Where the house is registered under the Land Registration Acts 1925 to 1971, the Chief Land Registrar shall, on application being made to him by the authority, register the authority as the proprietor of the house free from all estates, interests and rights to which its mortgage had priority, and he shall not be concerned to inquire whether any of the requirements of this Schedule were complied with.
- (3) Where the authority conveys the house, or part of it, to a person—
- (a) he shall not be concerned to inquire whether any of the provisions of this Schedule were complied with, and
  - (b) his title shall not be impeachable on the ground that the house was not properly vested in the authority or that those provisions were not complied with.
- (4) A house which is vested under this Schedule in a local housing authority shall be treated as acquired under Part II (provision of housing).

#### *Compensation and accounting*

- 3 (1) Where the authority has vested the house in itself under paragraph 1, it shall appropriate a fund equal to the aggregate of—
- (a) the amount agreed between the authority and the mortgagor or determined by the district valuer as being the amount which under sub-paragraph (2) is to be taken as the value of the house at the time of the vesting, and
  - (b) interest on that amount, for the period beginning with the vesting and ending with the appropriation, at the rate prescribed for that period under section 32 of the <sup>M31</sup>Land Compensation Act 1961 (rate prescribed for compulsory purchase cases where entry is made before compensation is paid).
- (2) The value of the house at the time of the vesting shall be taken to be the price which, at that time, the interest vested in the authority would realise if sold on the open market by a willing vendor on the assumption that any prior incumbrances to which the vesting is not made subject would be discharged by the vendor.
- (3) The fund shall be applied in the following order—
- (a) in discharging, or paying sums into court for meeting, any prior incumbrances to which the vesting is not made subject;
  - (b) in recovering the costs, charges, and expenses properly incurred by the authority as incidental to the vesting of the house;
  - (c) in recovering the mortgage money, interest, costs and other money (if any) due under the mortgage;

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- (d) in recovering any amount which falls to be paid under the covenant required by section 35 or 155 (repayment of discount, etc. on disposal) or paragraph 6 of Schedule 8 (terms of shared ownership lease: payment for outstanding share on disposal) or any provision of the conveyance or grant to the like effect;

and any residue then remaining in the fund shall be paid to the person entitled to the mortgaged house, or who would have been entitled to give receipts for the proceeds of sale of the house if it had been sold in the exercise of the power of sale.

- (4) Section 107(1) of the <sup>M32</sup>Law of Property Act 1925 (mortgagee's written receipt sufficient discharge for money arising under power of sale) applies to money payable under this Schedule as it applies to money arising under the power of sale conferred by that Act.

**Marginal Citations**

- M31** 1961 c. 33.  
**M32** 1925 c. 20.

*Modifications in case of conveyance or grant before 8th August 1980*

- 4 In a case to which this Schedule applies by virtue of section 452(6) (disposals before 8th August 1980 of property held by local authorities for housing purposes), the preceding paragraphs have effect with the following modifications—
- (a) for “house” substitute “ property ”;
- (b) for paragraph (a) of paragraph 3 (1) (value of house) substitute—  
“(a) the price at which the authority could have re-acquired the property by virtue of the condition mentioned in section 452(6)(b),”
- and omit paragraph 3(2) (which provides for ascertaining the value of the house);
- (c) omit paragraph (d) of paragraph 3(3) (which relates to repayment of discount and similar matters).

SCHEDULE 18

Section 456.

PROVISIONS WITH RESPECT TO ADVANCES UNDER THE  
SMALL DWELLINGS ACQUISITION ACTS 1899 TO 1923

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

- C8** Sch. 18 amended by S.I. 1986/148, art. 10(1)

*Repayment of advance*

- 1 (1) The advance shall be repaid with interest within such period not exceeding 30 years as may be agreed upon.



*Status: Point in time view as at 01/10/1997.*

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- (2) The rate of interest is per cent, in excess of the rate of interest which, one month before the date on which the terms of the advance were settled, was the rate fixed by the Treasury in respect of loans to local authorities for the purposes of Part V of the <sup>M33</sup>Housing Act 1957 (provision of housing), as follows—
- (a) where the time referred to is before 27th February 1964, the rate so fixed under section 1 of the <sup>M34</sup>Public Works Loans Act 1897;
  - (b) where the <sup>M35</sup>time referred to is on or after 27th February 1964 and before 1st April 1968, the rate so fixed under section 2 of the Public Works Loans Act 1964 in respect of loans made on the security of local rates, or, where there was more than one rate so fixed, such of those rates as the Treasury have directed in that behalf under that section;
  - (c) where the <sup>M36</sup>time referred to is on or after 1st April 1968, the rate determined under section 6(2) of the National Loans Act 1968 in respect of local loans of that class made on the security of local rates, subject to any relevant direction given by the Treasury under that subsection.
- (3) The repayment may be made either by equal instalments of principal or by an annuity of principal and interest combined; and all payments on account of principal or interest shall be made either weekly or at such other periods not exceeding half a year as may be agreed.
- (4) The proprietor of a house in respect of which an advance has been made may at any of the usual quarter days, after one month's written notice, and on paying all sums due on account of interest, repay to the local authority—
- (a) the whole of the outstanding principal of the advance, or
  - (b) any part of it, being £10 or a multiple of £10;
- and where the repayment is made by an annuity of principal and interest combined, the amount so outstanding, and the amount by which the annuity will be reduced where a part of the advance is paid off, shall be determined by a table annexed to the instrument securing the repayment of the advance.

#### Marginal Citations

**M33** 1957 c. 56.

**M34** 1897 c. 51.

**M35** 1964 c. 9.

**M36** 1968 c. 13.

#### *The statutory conditions*

- 2 (1) The house of which the ownership was acquired by means of the advance shall be held subject to the following conditions (in this Schedule referred to as “the statutory conditions”):—
- (a) Every sum for the time being due in respect of principal or interest for the advance shall be punctually paid:
  - (b) The proprietor shall reside in the house:
  - (c) The house shall be kept insured against fire to the satisfaction of the local authority, and the receipts for the premiums produced when required by them:
  - (d) The house shall be kept in good sanitary condition and good repair:

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- (e) The house shall not be used for the sale of intoxicating liquors, or in such a manner as to be a nuisance to adjacent houses:
  - (f) The local authority shall have power to enter the house by any person, authorised by them in writing for the purpose, at all reasonable times for the purpose of ascertaining whether the statutory conditions are complied with.
- (2) The statutory condition as to residence has effect for a period of three years from the date when the advance is made, or from the date on which the house is completed, whichever is the later.
- (3) The other statutory conditions have effect until the advance has been fully repaid, with interest, or the local authority have taken possession or ordered a sale under this Schedule.

*Condition as to residence may be dispensed with or suspended*

- 3 (1) The statutory condition as to residence may at any time be dispensed with by the local authority.
- (2) The local authority may allow a proprietor to permit, by letting or otherwise, a house to be occupied as a furnished house by some other person—
- (a) during a period not exceeding four months in all in any twelve months, or
  - (b) during his absence from the house in the performance of any duty arising from or incidental to any office, service or employment held or undertaken by him;
- and the statutory condition as to residence is suspended while the permission continues.
- (3) Where the proprietor of a house subject to the statutory conditions dies, the condition requiring residence is suspended until the expiration of twelve months from the death, or any earlier date at which the personal representatives transfer the ownership or interest of the proprietor in the course of administration.
- (4) Where the proprietor of any such house becomes bankrupt, or his estate <sup>F171</sup>falls to be administered in accordance with an order under section <sup>F172</sup>421 of the Insolvency Act 1986], and in either case an arrangement under this Schedule is made with the trustee in bankruptcy, the local authority may, if they think fit, suspend the condition as to residence during the continuance of the arrangement.
- (5) Where an advance has been made in pursuance of section 7(1) of the <sup>M37</sup>Small Dwellings Acquisition Act 1899 (power to make advance on strength of undertaking to begin residence), the statutory condition requiring residence is suspended during the period allowed before residence must be begun.

**Textual Amendments**

**F171** Words substituted by [Insolvency Act 1985 \(c. 65, SIF 66\)](#), s. 235(1)(2), Sch. 8 para. 39(2), **Sch. 9 para. 11(2)**

**F172** Words substituted by [Insolvency Act 1986 \(c. 45, SIF 66\)](#), s. 439(2), **Sch. 14**

**Marginal Citations**

**M37** 1899 c. 44.

*Status: Point in time view as at 01/10/1997.*

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*Personal liability and powers of the proprietor*

- 4 (1) The proprietor of the house of which the ownership was acquired by means of the advance is personally liable for the repayment of any sum due in respect of the advance until he ceases to be proprietor by reason of a transfer made in accordance with this paragraph.
- (2) The proprietor of the house may with the permission of the local authority (which shall not be unreasonably withheld) at any time transfer his interest in the house, but any such transfer shall be made subject to the statutory conditions.
- (3) The provisions of sub-paragraph (2) requiring the consent of the local authority to the transfer of the proprietor's interest in the house do not apply to a charge on that interest made by the proprietor, so far as the charge does not affect any rights or powers of the local authority under this Schedule.

*Circumstances in which local authority may take possession or order sale*

- 5 (1) Where default is made in complying with the statutory condition as to residence, the local authority may take possession of the house, and where default is made in complying with any of the other statutory conditions, whether the statutory condition as to residence has or has not been complied with, the local authority may either take possession of the house or order the sale of the house without taking possession.
- (2) In the case of the breach of any condition other than that of punctual payment of the principal and interest of the advance, the authority shall, previously to taking possession or ordering a sale, by notice in writing delivered at the house and addressed to the proprietor, call on the proprietor to comply with the condition, and if the proprietor—
- (a) within 14 days after the delivery of the notice gives an undertaking in writing to the authority to comply with the notice, and
- (b) within two months after the delivery of the notice complies with it,
- the authority shall not take possession or, as the case may be, order a sale.
- (3) In the case of the bankruptcy of the proprietor of the house, or in the case of a deceased proprietor's estate [<sup>F173</sup>falling to be administered in accordance with an order under section [<sup>F174</sup>421 of the Insolvency Act 1986]], the local authority may either take possession of the house or order the sale of the house without taking possession, and shall do so except in pursuance of some arrangement to the contrary with the trustee in bankruptcy.

**Textual Amendments**

**F173** Words substituted by [Insolvency Act 1985 \(c. 65, SIF 66\), s. 235\(1\)\(2\), Sch. 8 para. 39\(3\), Sch. 9 para. 11\(2\)](#)

**F174** Words substituted by [Insolvency Act 1986 \(c. 45, SIF 66\), s. 439\(2\), Sch. 14](#)

*Recovery of possession and disposal of house*

- 6 (1) Where a local authority take possession of a house, all the estate, right, interest and claim of the proprietor in or to the house shall vest in and become the property of the local authority, and the authority may either retain the house under their own management or sell or otherwise dispose of it as they think expedient.

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- (2) Where a local authority take possession of a house, they shall pay to the proprietor either—
- (a) such sum as may be agreed upon, or
  - (b) a sum equal to the value of the interest in the house at the disposal of the local authority, after deducting the amount of the advance then remaining unpaid and any sum due for interest;
- and that value, in the absence of a sale and in default of agreement, shall be settled by a county court judge as arbitrator or, if the Lord Chancellor so authorises, by a single arbitrator appointed by the county court judge, <sup>F175</sup> . . . shall apply to any such arbitration.
- (3) The sum so payable to the proprietor if not paid within three months after the date of taking possession shall carry interest at the rate of three per cent. per annum from the date of taking possession.
- (4) All costs of or incidental to the taking possession, sale or other disposal of the house (including the costs of the arbitration, if any) incurred by the local authority, before the amount payable to the proprietor has been settled either by agreement or arbitration, shall be deducted from the amount otherwise payable to the proprietor.
- (5) Where the local authority are entitled under this Schedule to take possession of a house, possession may be recovered in a county court whatever the annual value of the house for rating.

#### Textual Amendments

F175 Words in Sch. 18 para. 6(2) repealed (31.1.1997) by 1996 c. 23, s. 107(2), Sch. 4; S.I. 1996/3146, art. 3

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

C9 Sch. 18 para. 6(5) amended by S.I. 1990/776, art. 4(1)(h)

#### *Procedure as to ordering sale*

- 7 (1) Where a local authority order the sale of a house without taking possession, they shall cause it to be put up for sale by auction and shall retain out of the proceeds of sale—
- (a) any sum due to them on account of the interest or principal of the advance, and
  - (b) all costs, charges and expenses properly incurred by them in or about the sale of the house,
- and shall pay over the balance (if any) to the proprietor.
- (2) If the local authority are unable at the auction to sell the house for such a sum as will allow of the payment out of the proceeds of sale of the interest and principal of the advance then due to the authority, and the costs, charges and expenses referred to above, they may take possession of the house in manner provided by this Schedule, but shall not be liable to pay any sum to the proprietor.

#### *List of advances and accounts to be kept*

- 8 (1) A local authority shall keep at their offices a book containing a list of the advances made by them containing—

*Status: Point in time view as at 01/10/1997.*

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- (a) a description of the house in respect of which the advance was made, and
  - (b) the amount advanced.
- (2) The authority shall enter in the book with regard to each advance—
  - (a) the amount for the time being repaid,
  - (b) the name of the proprietor for the time being of the house, and
  - (c) such other particulars as the authority think fit to enter.
- (3) The book shall be open to inspection at the office of the local authority during office hours free of charge.
- (4) Separate accounts shall be kept by every local authority of their receipts and expenditure in relation to advances to which this Schedule applies.

*Meaning of “residence”, “ownership” and “proprietor”*

- 9
- (1) A person shall not be treated for the purposes of this Schedule as resident in a house unless he is both the occupier of and resident in the house.
  - (2) In this Schedule “ownership” means such interest, or combination of interests, in a house as, together with the interest of the purchaser of the ownership, will constitute either—
    - (a) a fee simple in possession, or
    - (b) a leasehold interest in possession of which at least 60 years are unexpired at the date of the purchase.
  - (3) Where the ownership of a house is acquired by means of an advance to which this Schedule applies, the purchase of the ownership or, in the case of any devolution or transfer, the person in whom the interest of the purchaser is for the time being vested, is the proprietor of the house for the purposes of this Schedule.

*Date of advance*

- 10
- For the purposes of this Schedule an advance shall be deemed to have been made on the date on which the instrument securing the repayment of the advance was executed.

SCHEDULE 19

Section 524.

CONTRIBUTIONS UNDER SUPERSEDED ENACTMENTS

*(Section 36 of the Housing (Financial Provisions) Act 1958)*

- 1
- (1) Contributions remain payable by the Secretary of State under section 36 of the <sup>M38</sup>Housing (Financial Provisions) Act 1958 1958 (contributions over a period of 20 years towards certain grants under Part II of that Act, Part II of the <sup>M39</sup>House Purchase and Housing Act 1959 or Part III of the Housing Act 1964) in pursuance of applications made before 25th August 1969.

*Status: Point in time view as at 01/10/1997.*

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- (2) The contributions are payable at such times and in such manner as the Treasury may direct and subject to such conditions as to records, certificates, audit or otherwise as the Secretary of State may, with the approval of the Treasury, impose.

**Marginal Citations**

**M38** 1958 c. 42.

**M39** 1959 c. 33.

*(Section 16 of the Housing Act 1969)*

- 2 (1) Contributions remain payable by the Secretary of State under section 16 of the <sup>M40</sup>Housing Act 1969 (contributions over a period of 20 years towards grants paid under Part I of that Act) in pursuance of applications made before 12th December 1974.
- (2) The contributions are payable at such times and in such manner as the Treasury may direct, and subject to such conditions as to records, certificates, audit or otherwise as the Secretary of State may, with the approval of the Treasury, impose.

**Marginal Citations**

**M40** 1969 c. 33.

SCHEDULE 20

Section 547.

ASSISTANCE BY WAY OF REPURCHASE

**PART I**

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) he 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.

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*Status:* Point in time view as at 01/10/1997.

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- (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.

*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

### 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.

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### *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 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)—



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- (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

#### 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;
  - “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 <sup>M41</sup>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**

**M41** 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.

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- (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, 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.

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- (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 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 <sup>M42</sup>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.

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**Marginal Citations**

**M42** 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
  - (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 <sup>M43</sup>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 <sup>M44</sup>Settled Land Act 1925.

**Marginal Citations**

**M43** 1925 c. 20.

**M44** 1925 c. 18.

*Status: Point in time view as at 01/10/1997.*

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## SCHEDULE 21

Section 566.

### DWELLINGS INCLUDED IN MORE THAN ONE DESIGNATION

#### *Introductory*

- 1 This Schedule applies in relation to a defective dwelling where the building that the dwelling consists of or includes falls within two or more designations under section 528 (designation by Secretary of State) or 559 (designation under local scheme).

#### *Cases in which later designation to be disregarded*

- 2 Where a person is already eligible for assistance in respect of a defective dwelling at a time when another designation comes into operation, the later designation shall be disregarded if—
- (a) he would not be eligible for assistance in respect of the dwelling by virtue of that designation, or
  - (b) he is by virtue of an earlier designation entitled to assistance by way of repurchase in respect of the dwelling.

#### *In other cases any applicable designation may be relied on*

- 3 Where a person is eligible for assistance in respect of a defective dwelling and there are two or more applicable designations, this Part has effect in relation to the dwelling as if—
- (a) references to the designation were to any applicable designation;
  - (b) references to the provision by virtue of which it is a defective dwelling were to any provision under which an applicable designation was made;
  - (c) references to the qualifying defect were to any qualifying defect described in an applicable designation;
  - (d) references to the period within which persons may seek assistance under this Part were to any period specified for that purpose in any applicable designation; and
  - (e) the reference in section 543(1)(c) (amount of reinstatement grant) to the maximum amount permitted to be taken into account for the purposes of that section were to the aggregate of the maximum amounts for each applicable designation.

#### *Procedure to be followed where later designation comes into operation*

- 4 The following provisions of this Schedule apply where—
- (a) notice has been given to a person under section 536 (determination of eligibility) stating that he is in the opinion of the local housing authority eligible for assistance in respect of a defective dwelling, and
  - (b) after the notice has been given another designation comes into operation designating a class within which the building that consists of or includes the dwelling falls.
- 5 (1) The local housing authority shall, as soon as reasonably practicable, give him notice in writing stating whether in their opinion the new designation falls to be disregarded in accordance with paragraph 2.

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- (2) If in their opinion it is to be disregarded the notice shall state the reasons for their view.
- 6 (1) This paragraph applies where it appears to the authority that the new designation does not fall to be disregarded.
- (2) They shall forthwith give him notice in writing—
- (a) stating the effect of the new designation and of paragraph 3 (new designation may be relied on) and sub-paragraph (3) below (entitlement to be redetermined), and
  - (b) informing him that he has the right to make a claim under section 537(2) (claim that assistance by way of reinstatement grant is inappropriate in his case).
- (3) They shall as soon as reasonably practicable—
- (a) make a further determination under section 537(1) (determination of form of assistance to which person is entitled), taking account of the new designation, and
  - (b) give a further notice of determination in place of the previous notice;
- and where the determination is that he is entitled to assistance by way of repurchase, the notice shall state the effect of paragraph 7 (cases where reinstatement work already begun or contracted for).
- 7 (1) This paragraph applies where a person entitled to assistance by way of reinstatement grant is given a further notice of entitlement under paragraph 6 stating that he is entitled to assistance by way of repurchase; and “the reinstatement work” means the work stated in the previous notice or in a notice under section 544 (change of work required).
- (2) Where in such a case—
- (a) he satisfies the authority that he has, before the further notice was received, entered into a contract for the provision of services or materials for any of the reinstatement work, or
  - (b) any such work has been carried out before the further notice was received, and has been carried out to the satisfaction of the appropriate authority,
- the previous notice (and any notice under section 544 (change of work required)) continues to have effect for the purposes of reinstatement grant in relation to the reinstatement work or, in a case within paragraph (b), such of that work as has been carried out as mentioned in that paragraph, and the authority shall pay reinstatement grant accordingly.
- (3) Where in a case within sub-paragraph (2) the reinstatement work is not completed but part of the work is carried out to the satisfaction of the appropriate authority within the period stated in the notice in question—
- (a) the amount of reinstatement grant payable in respect of that part of the work shall be an amount equal to the maximum instalment of grant payable under section 545(2) (instalments not to exceed appropriate percentage of cost of work completed), and
  - (b) section 546 (repayment of grant in event of failure to complete work) does not apply in relation to reinstatement grant paid in respect of that part of the work.

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## SCHEDULES 22—24.

F176  
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### Textual Amendments

**F176** Schs. 22–24 repealed by Local Government and Housing Act 1989 (c. 42, SIF 61), s. 194(4), **Sch. 12 Pt. II**

## TABLE OF DERIVATIONS

1 The following abbreviations are used in this Table—

### ACTS OF PARLIAMENT

1899	= The Small Dwellings Acquisition Act 1899 (c. 44).
1923 (c. 24)	= The Housing &c. Act 1923.
1935 (c. 40)	= The Housing Act 1935.
1936 (c. 49)	= The Public Health Act 1936.
1957	= The Housing Act 1957 (c. 56)
1958	= The Housing (Financial Provisions) Act 1958 (c. 42).
1959 (H)	= The House Purchase and Housing Act 1959 (c. 33).
1959 (U)	= The Housing (Underground Rooms) Act 1959 (c. 34).
1959 (c. 53)	= The Town and Country Planning Act 1959.
1961 (c. 33)	= The Land Compensation Act 1961.
1961	= The Housing Act 1961 (c. 65).
1961 (c. 64)	= The Public Health Act 1961.
1963 (c. 33)	= The London Government Act 1963.
1964 (c. 9)	= The Public Works Loans Act 1964.
1964	= The Housing Act 1964 (c. 56).
1965 (c. 56)	= The Compulsory Purchase Act 1965.
1965 (c. 75)	= The Rent Act 1965.
1965	= The Housing (Slum Clearance Compensation) Act 1965 (c. 81).

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1967 (c. 9)	= The General Rate Act 1967.
1967 (c. 80)	= The Criminal Justice Act 1967.
1968 (c. 13)	= The National Loans Act 1968.
1968 (c. 23)	= The Rent Act 1968.
1968 (c. 42)	= The Prices and Incomes Act 1968.
1969 (c. 19)	= The Decimal Currency Act 1969.
1969	= The Housing Act 1969 (c. 33).
1971 (c. 23)	= The Courts Act 1971.
1971	= The Housing Act 1971 (c. 76).
1971 (c. 78)	= The Town and Country Planning Act 1971.
1972	= The Housing Finance Act 1972 (c. 47).
1972 (c. 70)	= The Local Government Act 1972.
1972 (c. 71)	= The Criminal Justice Act 1972.
1973 (H)	= The Housing Amendment Act 1973 (c. 5).
1974 (c. 7)	= The Local Government Act 1974.
1974 (c. 39)	= The Consumer Credit Act 1974.
1974	= The Housing Act 1974 (c. 44).
1975	= The Housing Rents and Subsidies Act 1975 (c. 6).
1975 (c. 24)	= The House of Commons Disqualification Act 1975.
1975 (c. 72)	= The Children Act 1975.
1975 (c. 76)	= The Local Land Charges Act 1975.
1976 (c. 52)	= The Armed Forces Act 1976.
1976 (c. 57)	= The Local Government (Miscellaneous Provisions) Act 1976.
1976 (c. 75)	= The Development of Rural Wales Act 1976.
1976 (c. 80)	= The Rent (Agriculture) Act 1976.
1977 (c. 42)	= The Rent Act 1977.
1977 (c. 43)	= The Protection from Eviction Act 1977.
1977 (c. 45)	= The Criminal Law Act 1977.
1977	= The Housing (Homeless Persons) Act 1977 (c. 48).



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1978	= The Home Purchase Assistance and Housing Corporation Guarantee Act 1978 (c. 27).
1978 (c. 30)	= The Interpretation Act 1978.
1978 (I)	= The Home Insulation Act 1978 (c. 48).
1980 (c. 43)	= The Magistrate’s Courts Act 1980.
1980	= The Housing Act 1980 (c. 51).
1980 (c. 65)	= The Local Government, Planning and Land Act 1980.
1981 (c. 54)	= The Supreme Court Act 1981.
1981 (c. 64)	= The New Towns Act 1981.
1981 (c. 67)	= The Acquisition of Land Act 1981.
1982 (c. 24)	= The Social Security and Housing Benefits Act 1982.
1982 (c. 48)	= The Criminal Justice Act 1982.
(1984 (c. 12)	= The Telecommunications Act 1984.
1984 (c. 22)	= The Public Health (Control of Disease) Act 1984.
1984 (c. 28)	= The County Courts Act 1984.
1984	= The Housing and Building Control Act 1984 (c. 29).
1984 (D)	= The Housing Defects Act 1984 (c. 50).
1985 (c. 9)	= The Companies Consolidation (Consequential Provisions) Act 1985.
1985 (c. 51)	= The Local Government Act 1985.
	Subordinate legislation
S.I. 1972/1204	= The Isles of Scilly (Housing) Order 1972.
S.I. 1973/886	= The Isles of Scilly (Housing) (No. 2) Order 1973.
S.I. 1975/512	= The Isles of Scilly (Housing) Order 1975.
S.I. 1979/72	= The Isles of Scilly (Functions) Order 1979.
S.I. 1981/723	= The Local Authority Contributions (Disposal of Dwellings) Order 1981.
S.I. 1982/1109	= The Crown Court Rules 1982.

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*Status: Point in time view as at 01/10/1997.*

*Changes to legislation: Housing Act 1985 is up to date with all changes known to be in force on or before 01 July 2024. There are changes that may be brought into force at a future date. Changes that have been made appear in the content and are referenced with annotations. (See end of Document for details)*

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S.I. 1983/613	= The Grants by Local Authorities (Eligible Expense Limits) Order 1983.
S.I. 1983/1122	= The Housing (Northern Ireland Consequential Amendments) Order 1983.

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- 2     The Table does not show the effect of Transfer of Functions Orders.
- 3     The letter R followed by a number indicates that the provision gives effect to the Recommendation bearing that number in the law Commission’s Report on the Consolidation of the Housing Acts (Cmnd. 9515).
- 4     A reference followed by “*passim*” indicates that the provision of the consolidation derives from passages within those referred to which it is not convenient, and does not appear necessary, to itemise.
- 5     The entry “drafting” indicates a provision of a mechanical or editorial nature affecting the arrangement of the consolidation; for instance, a provision introducing a Schedule or introducing a definition to avoid undue repetition of the defining words.

**Status:**

Point in time view as at 01/10/1997.

**Changes to legislation:**

Housing Act 1985 is up to date with all changes known to be in force on or before 01 July 2024. There are changes that may be brought into force at a future date. Changes that have been made appear in the content and are referenced with annotations.