

*Status: Point in time view as at 01/06/1996.*

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## SCHEDULES

### SCHEDULE 5

#### HOUSING: MINOR AND CONSEQUENTIAL AMENDMENTS

##### PART I

##### MINOR AMENDMENTS

##### *Effect of covenant for repayment of discount*

- 1 (1) In section 36 of the <sup>M1</sup>Housing Act 1985 (charge to secure repayment of discount given on voluntary disposal), after subsection (3) insert—
  - “(3A) The covenant required by section 35 (covenant for repayment of discount) does not, by virtue of its binding successors in title of the purchaser, bind a person exercising rights under a charge having priority over the charge taking effect by virtue of this section, or a person deriving title under him; and a provision of the conveyance, grant or assignment, or of a collateral agreement, is void in so far as it purports to authorise a forfeiture, or to impose a penalty or disability, in the event of any such person failing to comply with the covenant.”.
- (2) In section 156 of the Housing Act 1985 (charge to secure repayment of discount given on exercise of right to buy), after subsection (3) insert—
  - “(3A) The covenant required by section 155 (covenant for repayment of discount) does not, by virtue of its binding successors in title of the tenant, bind a person exercising rights under a charge having priority over the charge taking effect by virtue of this section, or a person deriving title under him; and a provision of the conveyance or grant, or of a collateral agreement, is void in so far as it purports to authorise a forfeiture, or to impose a penalty or disability, in the event of any such person failing to comply with that covenant.”.
- (3) In section 158 of the Housing Act 1985 (consideration for reconveyance or surrender of dwelling-house in National Park, etc. acquired in pursuance of right to buy) in subsection (3) (reduction of consideration where discount to be repaid or outstanding share to be paid for) after “shall be reduced” insert “, subject to subsection (4),”, and after that subsection insert—
  - “(4) Where there is a charge on the dwelling-house having priority over the charge to secure payment of the sum due under the covenant mentioned in subsection (2), the consideration shall not be reduced under subsection (3) below the amount necessary to discharge the outstanding sum secured by the first-mentioned charge at the date of the offer to reconvey or surrender.”.

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- (4) In paragraph 2 of Schedule 2 to the <sup>M2</sup>Housing Associations Act 1985 (charge to secure repayment of discount given on voluntary disposal by housing association), after sub-paragraph (3) insert—

“(3A) The covenant required by paragraph 1 (covenant for repayment of discount) does not, by virtue of its binding successors in title of the purchaser, bind a person exercising rights under a charge having priority over the charge taking effect by virtue of this paragraph, or a person deriving title under him; and a provision of the conveyance, grant or assignment, or of a collateral agreement, is void in so far as it purports to authorise a forfeiture, or to impose a penalty or disability, in the event of any such person failing to comply with that covenant.”.

- (5) The above amendments apply to covenants entered into before as well as after the commencement of this paragraph.

**Marginal Citations**

- M1** 1985 c. 68.  
**M2** 1985 c. 69.

*Acquisition of dwelling-house subject to statutory tenancy*

- 2 In Part IV of the <sup>M3</sup>Housing Act 1985 (secure tenancies), before section 110 under the heading “Supplementary provisions” insert—

**Acquisition of dwelling-house subject to statutory tenancy.**

“109A Where an authority or body within section 80 (the landlord condition for secure tenancies) becomes the landlord of a dwelling-house subject to a statutory tenancy, the tenancy shall be treated for all purposes as if it were a contractual tenancy on the same terms, and the provisions of this Part apply accordingly.”.

**Marginal Citations**

- M3** 1985 c. 68.

*Landlord’s notice to mention any structural defect*

- 3 In section 125 of the Housing Act 1985 (exercise of right to buy: landlord’s notice of purchase price and certain other matters), after subsection (4) insert—

“(4A) The notice shall contain a description of any structural defect known to the landlord affecting the dwelling-house or the building in which it is situated or any other building over which the tenant will have rights under the conveyance or lease.”.

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*Re-service of notices, etc. on change of landlord in course of exercise of right to buy*

- 4 (1) Section 137 of the Housing Act 1985 (change of landlord after notice claiming right to buy or right to a mortgage) is amended as follows.
- (2) Make the existing provision subsection (1) and in it after “all parties shall” insert “, subject to subsection (2),”.
- (3) After that subsection insert—

“(2) If the circumstances after the disposal differ in any material respect, as for example where—

- (a) the interest of the disponee in the dwelling-house after the disposal differs from that of the disponent before the disposal, or
- (b) the right to a mortgage becomes exercisable against the Housing Corporation rather than the landlord, or *vice versa*, or
- (c) any of the provisions of Schedule 5 (exceptions to the right to buy) becomes or ceases to be applicable,

all those concerned shall, as soon as practicable after the disposal, take all such steps (whether by way of amending or withdrawing and re-serving any notice or extending any period or otherwise) as may be requisite for the purpose of securing that all parties are, as nearly as may be, in the same position as they would have been if those circumstances had obtained before the disposal.”.

*Deferment of completion in pursuance of right to buy*

F15 .....

**Textual Amendments**

**F1** Sch. 5 para. 5 repealed (11.10.1993 subject to savings in S.I. 1993/2134, **Sch. 1 para. 4**) by 1993 c. 28, s. 187(2), **Sch.22**; S.I. 1993/2134, 2, 4(b), Sch. 2.

*Penalty for voting on certain housing matters*

- 6 (1) In section 618(4) of the Housing Act 1985 (penalty for member of Common Council or committee voting on housing matter relating to land in which he is interested), for “level 2 on the standard scale” substitute “level 4 on the standard scale”.
- (2) The above amendment does not apply to offences committed before the commencement of this paragraph.

*Grounds for withholding consent to assignment of secure tenancy*

- 7 In Schedule 3 to the <sup>M4</sup>Housing Act 1985 (grounds for withholding consent to assignment by way of exchange), after Ground 9 add—

*“ Ground 10*

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-

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houses are members of the association and the proposed assignee is not, and is not willing to become, a member of the association.”.

**Marginal Citations**

M4 1985 c. 68.

8 ..... F2

**Textual Amendments**

F2 Sch. 5 para. 8 repealed by Housing Act 1988 (c. 50, SIF 61), s. 140(2), Sch. 18 (with a saving for para. 8(1) in S.I. 1989/404, art. 3(d))

*Service charges in respect of the cost of grant-aided works*

9 (1) In the Landlord and Tenant Act 1985, after section 20 insert—

**“20A Limitation of service charges: grant-aided works.**

Where relevant costs are incurred or to be incurred on the carrying out of works in respect of which a grant has been or is to be paid under Part XV of the Housing Act 1985 (grants for works of improvement, repair or conversion), the amount of the grant shall be deducted from the costs and the amount of the service charge payable shall be reduced accordingly.”.

(2) In section 21 of the Landlord and Tenant Act 1985 (request for summary of relevant costs), in subsection (5) (contents of summary) after “shall” insert “state whether any of the costs relate to works in respect of which a grant has been or is to be paid under Part XV of the Housing Act 1985 (grants for works of improvement, repair or conversion) and”.

(3) In section 47 of the Housing Act 1985 (limitation on service charges payable after disposal of house by public sector authority), after subsection (3) add—

“(4) Where relevant costs are incurred or to be incurred on the carrying out of works in respect of which a grant has been or is to be paid under Part XV (grants for works of improvement, repair or conversion), the amount of the grant shall be deducted from the costs and the amount of the service charge payable shall be reduced accordingly.”.

(4) In section 48 of the <sup>M5</sup>Housing Act 1985 (request for summary of relevant costs), after subsection (3) (contents of summary) insert—

“(3A) The summary shall also state whether any of the costs relate to works in respect of which a grant has been or is to be paid under Part XV (grants for works of improvement, repair or conversion).”.

**Marginal Citations**

M5 1985 c. 68.

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*Miscellaneous corrections*

- 10 (1) ..... F3
- (2) In sections 207 and 322 of the Housing Act 1985, in the definition of “person having control” for “house” substitute “premises”.
- (3) In section 251(5)(b) of the Housing Act 1985 after “housing action” insert “area”.
- (4) In section 256(4)(b) of the Housing Act 1985 for “to the local planning authority” substitute “of the local planning authority”.
- (5) ..... F3
- (6) In section 10(2)(b) of the <sup>M6</sup>Housing Associations Act 1985, for “Schedule 3 to the Housing Act 1985” substitute “Schedule 1 to the Housing Act 1985”.
- (7) In paragraph 27 of Schedule 2 to the <sup>M7</sup>Housing (Consequential Provisions) Act 1985 for “(4)”, in both places where it occurs, substitute “(6)”.
- (8) In Schedule 3 to the Housing (Consequential Provisions) Act 1985, after paragraph 2 insert—
- “(2A) Any order made under section 115(11) of the Housing Act 1974 (form of notice of compensation where land in clearance area deemed appropriated for provision of housing) which was in force immediately before the repeal of that section by this Act may be revoked or amended by regulations under section 614 of the Housing Act 1985 (general power to prescribe forms, etc. by regulations).”.
- (9) The above amendments have effect from 1st April 1986.

**Textual Amendments**

**F3** Sch. 5 para. 10(1)(5) repealed by [Local Government and Housing Act 1989 \(c. 42, SIF 61, 81:1\)](#), s. 194(4), [Sch. 12 Pt. II](#)

**Marginal Citations**

**M6** 1985 c. 69.  
**M7** 1985 c. 71.

- 11 (1) In sections 80(1)(a) and 81(1)(a), (3)(b) and (4)(b) of the <sup>M8</sup>Building Act 1984 (service of notices in respect of proposed demolition), after “demolition order” insert “or obstructive building order”.
- (2) The above amendment to section 80 of the Building Act 1984 has effect from 1st April 1986.

**Marginal Citations**

**M8** 1984 c. 55.

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- 12 In paragraph 14(2) of Schedule 11 and paragraph 8(2) of Schedule 22 to the <sup>M9</sup>Housing Act 1985 (procedure after compulsory purchase order has become operative), for “a copy of the notice” substitute “a copy of the order”.

**Marginal Citations**

**M9** 1985 c. 68.

- 13 In Part II of the <sup>M10</sup>Housing Associations Act 1985 (housing association finance)—
- (a) in section 67(1) (loans by Public Works Loan Commissioners: England and Wales), and
  - (b) in section 68(1) (loans by Public Works Loan Commissioners: Scotland),
- for “housing association” substitute “registered housing association”.

**Marginal Citations**

**M10** 1985 c. 69.

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