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## SCHEDULES

### SCHEDULE 1

Section 6(2).

#### SCHEDULE TO BE INSERTED IN THE HOUSING ACT 1985

#### “SCHEDULE 3A

#### CONSULTATION BEFORE DISPOSAL TO PRIVATE SECTOR LANDLORD

##### *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 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 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.
- (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).

##### *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 not 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.

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- (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 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
  - (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).

*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.

*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.”

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## SCHEDULE 2

Section 8(2).

### SCHEDULE TO BE INSERTED IN THE HOUSING ACT 1985

#### “SCHEDULE 9A

#### LAND REGISTRATION AND RELATED MATTERS WHERE RIGHT TO BUY PRESERVED

##### *Statement to be contained in instrument effecting qualifying disposal*

- 1 On a qualifying disposal, the disponor 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 disponor’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) Where on a qualifying disposal the disponor’s title to the dwelling-house is not registered, section 123 of the <sup>M1</sup>Land Registration Act 1925 (compulsory registration of title) applies—
  - (a) whether or not the dwelling-house is in an area in which an Order in Council under section 120 of that Act (areas of compulsory registration) is in force, and
  - (b) whether or not, where the disposal takes the form of the grant or assignment of a lease, the lease is granted for a term of more than 21 years or, as the case may be, is a lease for a term of which more than 21 years are unexpired.
  - (2) In such a case the disponor shall give the disponent a certificate stating that the disponor 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 disponor’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 disponor’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 disponor 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.
- 3 Where a qualifying disposal takes the form of the grant or assignment of a lease, sections 8 and 22 of the <sup>M2</sup>Land Registration Act 1925 (application for registration of leasehold land and registration of dispositions of leasehold) apply notwithstanding that it is a lease for a term of which not more than 21 years are unexpired or, as the case may be, a lease granted for a term not exceeding 21 years; and accordingly section 70(1)(k) of that Act (leases which are overriding interests) does not apply.

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*Entries on register protecting preserved right to buy*

- 4 The Chief Land Registrar on application being made for registration of a disposition of registered land or, as the case may be, of the disponee's title under a disposition of unregistered land, shall, if the instrument effecting the disposal contains the statement required by paragraph 1, enter in the register—
- (a) a notice protecting the rights of qualifying persons under this Part in relation to dwelling-houses comprised in the disposal, and
  - (b) a restriction stating the requirement of consent under section 171D(2) for certain subsequent disposals of the landlord's interest.

*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.
- (2) If the landlord's title is registered, the landlord shall apply for the entry on the register of—
- (a) a notice protecting the rights of the qualifying person or persons under the provisions of this Part, and
  - (b) a restriction stating the requirement of consent under section 171D(2) for certain disposals of the landlord's interest.
- (3) A qualifying person may apply for the entry of such a notice and restriction and section 64(1) of the Land Registration Act 1925 (production of land certificate) does not apply to the entry of a notice or restriction on such an application; but without prejudice to the power of the Chief Land Registrar to call for the production of the certificate by the landlord.
- (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 <sup>M3</sup>Land Charges Act 1972 in the same way as an estate contract and the landlord shall, and a qualifying person may, apply for such registration.

*Effect of non-registration*

- 6 (1) The rights of a qualifying person under this Part in relation to the qualifying dwelling-house—
- (a) shall be treated as interests to which sections 20 and 23 of the <sup>M4</sup>Land Registration Act 1925 apply (under which the transferee or grantee under a registered disposition takes free from estates and interests which are not protected on the register and are not overriding interests), and
  - (b) shall not be treated as overriding interests for the purposes of that Act, notwithstanding that the qualifying person is in actual occupation of the land.
- (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 <sup>M5</sup>Land Charges Act 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

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the substitution for the reference to the contract being void of a reference to the right to buy ceasing to be preserved.

*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—
- (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 Acts 1925 to 1986 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.

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*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.”

**Marginal Citations**

- M1** 1925 c. 21.  
**M2** 1925 c. 21.  
**M3** 1972 c. 61  
**M4** 1925 c. 21.  
**M5** 1972 c. 61.

[<sup>F1</sup>SCHEDULE 3

Section 15.

COMMON PARTS GRANTS

**Textual Amendments**

- F1** Sch. 3 repealed (*prosp.*) by [Local Government and Housing Act 1989 \(c. 42, SIF 61\)](#), s. 194(4), 195(2), [Sch. 12 Pt. II](#)

**PART I**

AMENDMENTS OF PART XV OF THE HOUSING ACT 1985

- 1 (1) Section 460 of the <sup>M6</sup>Housing Act 1985 (general description of main grants) is amended as follows.
- (2) In subsection (1) omit the word “and” after the reference to special grants and after the reference to repairs grants insert “common parts grants (sections 498A to 498G)”.
- (3) In subsection (2) for paragraphs (b) and (c) substitute—
- “**(b)** the improvement or repair of dwellings,  
**(c)** the improvement or repair of the common parts of a building including one or more flats, and”.

**Marginal Citations**

- M6** 1985 c. 68.

- 2 In section 462(1) of the <sup>M7</sup>Housing Act 1985 (preliminary condition for grants: the age of the property), after paragraph (b) insert
- (c)** a common parts grant in respect of a building which was erected after 2nd October 1961.”

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#### Marginal Citations

M7 1985 c. 68.

- 3 In section 463(1) of the Housing Act 1985 (preliminary condition for eligibility for grant: the interest of the applicant in the property) for “may entertain an application for a grant only if” substitute “shall not entertain an application for a grant, other than an application for a common parts grant, unless”.
- 4 After section 464 of the Housing Act 1985 insert—

#### “ Preliminary conditions for application for common parts grant.

- (1) A local housing authority shall not entertain an application for a common parts grant unless they are satisfied as regards the relevant works that the applicant either—
- (a) has a duty to carry them out, or
  - (b) has power to carry them out and has a qualifying interest in the building or in a dwelling in the building,
- and that, at the date of the application, at least the required proportion of the dwellings in the building is occupied by tenants.
- (2) The following are qualifying interests for the purposes of subsection (1)(b)—
- (a) an estate in fee simple absolute in possession;
  - (b) a term of years absolute of which not less than five years remains unexpired at the date of the application;
  - (c) a tenancy to which section 1 of the Landlord and Tenant Act 1954 applies (long tenancies at low rents);
  - (d) a protected tenancy, a secure tenancy, a protected occupancy or a statutory tenancy;
  - (e) a tenancy which satisfies such conditions as may be prescribed by order of the Secretary of State.
- (3) The required proportion mentioned in subsection (1) is three-quarters or such other proportion as may be—
- (a) prescribed for the purposes of this section by order of the Secretary of State, or
  - (b) approved by him, in relation to a particular case or description of case, on application by the local housing authority;
- and “tenant” for the purposes of that requirement means a person who has an interest within any of paragraphs (b) to (e) of subsection (2) by virtue of which he occupies a dwelling in the building as his only or main residence.
- (4) An order under this section—
- (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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(5) This section has effect subject to section 513 (parsonages, applications by charities, &c.).”.

5 In section 466(1) of the <sup>M8</sup>Housing Act 1985 (grants requiring consent of the Secretary of State) for “or intermediate grant” substitute “, intermediate grant or common parts grant”.

#### Marginal Citations

M8 1985 c. 68.

6 After section 498 of the Housing Act 1985 insert—

*“ Common parts grant*

#### **Works for which common parts grants may be given.**

- (1) The works for which a common parts grant may be given are works required for the improvement or repair of the common parts of a building in which there are one or more flats, other than works for the provision of a dwelling.
- (2) For this purpose—
  - (a) “flat” means a dwelling which is a separate set of premises, whether or not on the same floor, divided horizontally from some other part of the building, and
  - (b) “common parts” includes the structure and exterior of the building and common facilities provided, whether in the building or elsewhere, for persons who include the occupiers of one or more dwellings in the building.

#### **Standard of repair to be attained.**

- (1) The local housing authority shall not, without the consent of the Secretary of State, approve an application for a common parts grant in respect of a building unless they are satisfied that on completion of the relevant works the common parts of the building will be in reasonable repair.
- (2) The Secretary of State’s consent to the approval of applications where that standard will not be attained may be given in particular cases or in relation to descriptions of case.
- (3) If in the opinion of the authority the relevant works are more extensive than is necessary for the purpose of securing that the common parts of the building will attain that standard, the authority may, with the consent of the applicant, treat the application as varied so that the relevant works include only such works as seem to the authority necessary for that purpose; and they may then approve the application as so varied.

#### **Rateable value limit.**

- (1) The local housing authority shall not approve an application for a common parts grant in respect of a building if, on the date of the application, the



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average rateable value of the dwellings in the building exceeds the limit specified for the purposes of this section by order of the Secretary of State.

- (2) The consent of the Treasury is required for the making of an order.
- (3) An order—
  - (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.
- (4) For the purposes of this section—
  - (a) where a dwelling is a hereditament for which a rateable value is shown in the valuation list, the rateable value is the value shown;
  - (b) where a dwelling forms part only of such a hereditament, or consists of or forms part of more than one such hereditament, the rateable value is such value as the local housing authority, after consultation with the applicant as to an appropriate apportionment or aggregation, shall determine.
- (5) This section does not apply to buildings in housing action areas.

#### **Common parts grants are discretionary.**

- (1) A local housing authority may approve an application for a common parts grant in such circumstances as they think fit.
- (2) Subsection (1) has effect subject to the following provisions (which restrict the cases in which applications may be approved)—
  - section 465 (works already begun),
  - section 466 (cases in which consent of Secretary of State is required),
  - section 498B (standard of repair to be attained), and
  - section 498C (rateable value limit).

#### **Common parts grants: estimated expense of works.**

- (1) Where a local housing authority approve an application for a common parts grant, they shall determine the amount of the expenses which in their opinion are proper to be incurred for the execution of the relevant works and shall notify the applicant of that amount.
- (2) If, after an application for a grant has been approved, the authority are satisfied that owing to circumstances beyond the control of the applicant the relevant works will not be carried out on the basis of the estimate contained in the application, they may, on receiving a further estimate, redetermine the estimated expense in relation to the grant.
- (3) If the applicant satisfies the authority that—
  - (a) the relevant works cannot be, or could not have been, carried out without carrying out additional works, and

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- (b) this could not have been reasonably foreseen at the time the application was made,  
the authority may determine a higher amount under subsection (1).

**Common parts grant: limit on expense eligible for grant.**

- (1) Except in a case or description of case in respect of which the Secretary of State approves a higher eligible expense, the eligible expense for the purposes of a common parts grant is so much of the estimated expense as does not exceed the prescribed amount.
- (2) In subsection (1) “the prescribed amount” means an amount prescribed, or ascertained in a manner prescribed, by order of the Secretary of State.
- (3) An order—
  - (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 the House of Commons.

**Common parts grants: determination of amount.**

- (1) The amount of a common parts grant shall be fixed by the local housing authority when they approve the application, and shall not exceed the appropriate percentage of the eligible expense.
- (2) The authority shall notify the applicant of the amount of the grant together with the notification under section 498E(1) (notification of estimated expense of relevant works).
- (3) Where the authority redetermine the amount of the estimated expense under section 498E(2) (new estimate where works cannot be carried out in accordance with original estimate), they shall make such other adjustments relating to the amount of the grant as appear to them to be appropriate; but the amount of the grant shall not be increased beyond the amount which could have been notified when the application was approved if the estimate contained in the application had been of the same amount as the further estimate.
- (4) Where the authority redetermine the amount of the estimated expense under section 498E(3) (redetermination where additional works prove necessary), the eligible expense under section 498F shall be recalculated and if on the recalculation the amount of the eligible expense is greater than it was at the time when the application was approved, the amount of the grant shall be increased and the applicant notified accordingly.”

- 7 In section 499(3) of the <sup>M9</sup>Housing Act 1985 for “this Part” substitute “the following provisions of this Part down to section 507”.

**Marginal Citations**

M9 1985 c. 68.

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- 8 In section 511 of the Housing Act 1985 (payment of grants: general), in subsection (3)(b) for “or repairs grant” substitute “, repairs grant or common parts grant”.
- 9 In section 513 of the Housing Act 1985 (special cases: parsonages, applications by charities, &c.), in subsection (2) (provisions disapplied) after the reference to section 464 omit the word “and” and insert—
- “so much of section 464A(1)(b) (preliminary conditions for application for common parts grant) as requires the applicant to have a qualifying interest in the premises, and”.
- 10 (1) Section 514 of the Housing Act 1985 (power of local housing authority to carry out works with agreement of person by whom application for grant might be made) is amended as follows.
- (2) For subsection (2) (definition of “requisite interest”) substitute—
- “(2) The reference in subsection (1) to a person having the requisite interest is, except in the case of a common parts grant, to a person who has an owner’s interest in every parcel of land on which the relevant works are to be carried out; and in this subsection “owner’s interest” has the same meaning as in section 463(1)(a).
- (2A) The reference in subsection (1) to a person having the requisite interest is in the case of a common parts grant to a person who as regards the relevant works either—
- (a) has a duty to carry them out, or
- (b) has power to carry them out and has a qualifying interest in the building or in a dwelling in the building;
- and in this subsection “qualifying interest” has the same meaning as in section 464A(1)(b).”.
- 11 In section 515 of the Housing Act 1985, for subsections (2) and (3) (effect on grant of disposal by applicant of his interest in the property) substitute—
- “(2) Where an application for a grant is approved but before the certified date the applicant ceases to be a person entitled to apply for a grant of that description—
- (a) in the case of an improvement grant, intermediate grant, special grant or repairs grant, no grant shall be paid or, as the case may be, no further instalments shall be paid, and
- (b) in the case of a common parts grant, the local housing authority may refuse to pay the grant or any further instalment,
- and the authority may demand that any instalment of the grant which has been paid be repaid forthwith, together with interest from the date on which it was paid until repayment at such reasonable rate as the authority may determine.
- (3) In subsection (2) “the certified date” means the date certified by the local housing authority as the date on which the dwelling, house or, as the case may be, the common parts of the building, first become fit for occupation or use after the completion of the relevant works to the satisfaction of the authority.

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- (4) For the purposes of subsection (2) an applicant ceases to be a person entitled to apply for a grant, other than a common parts grant, if he—
- (a) ceases to have an owner’s interest in every parcel of land on which the relevant works are to be or have been carried out, or
  - (b) ceases to be a tenant of the dwelling;
- and in this subsection “owner’s interest” and “tenant” have the same meaning as in section 463(1)(a) and (b).
- (5) For the purposes of subsection (2) an applicant ceases to be a person entitled to apply for a common parts grant if he—
- (a) ceases to have a duty to carry out the relevant works, or
  - (b) ceases to have power to carry them out or to have a qualifying interest in the building or in a dwelling in the building;
- and in this subsection “qualifying interest” has the same meaning as in section 464A(1)(b).”.

12 In section 518 of the <sup>M10</sup>Housing Act 1985 (meaning of “dwelling for a disabled occupant” and related expressions), for subsection (3) substitute—

- “(3) In this Part “improvement”—
- (a) in relation to a dwelling for a disabled occupant, includes the doing of works required for making the dwelling suitable for his accommodation, welfare or employment, and
  - (b) in relation to the common parts of a building which includes such a dwelling, includes the doing of works required for making the common parts suitable for use by a disabled occupant of a dwelling.”.

**Marginal Citations**

**M10** 1985 c. 68.

13 Renumber section 519 of the <sup>M11</sup>Housing Act 1985 (meaning of “reasonable repair”) as subsection (1) of that section and after it insert—

- “(2) In determining what is “reasonable repair” in relation to the common parts of a building, a local housing authority shall have regard to—
- (a) the age and character of the building and the locality in which it is situated, and
  - (b) the character of the dwellings in the building and the period during which they are likely to be available for use as dwellings,
- and shall disregard the state of internal decorative repair of the building and the dwellings in it.”.

**Marginal Citations**

**M11** 1985 c. 68.

14 (1) Section 526 of the Housing Act 1985 (the index to Part XV) is amended as follows.

(2) At the appropriate places insert—

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*Changes to legislation: Housing and Planning Act 1986 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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“common parts (for the purposes of common parts grant)	section 498A(2)(b)”
“common parts grant	sections 460 and 498A”
“flat (for the purposes of common parts grant)	section 498A(2)(a)”

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- (3) In the second column of the entry relating to the expression “eligible expense” for “and 497” substitute “, 497 and 498F”.

## PART II

### AMENDMENTS OF OTHER ENACTMENTS

- 15 In section 116 of the <sup>M12</sup>Rent Act 1977 (consent of tenant to carrying out of works), in subsection (3) (cases in which county court may empower landlord to enter in absence of consent), for “improvement or intermediate grant” substitute “improvement grant, intermediate grant or common parts grant”.

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#### Marginal Citations

**M12** 1977 c. 42.

- 16 (1) Part IV of the Housing Act 1985 (secure tenancies and rights of secure tenants) is amended as follows.
- (2) In section 100 (power to reimburse cost of improvements carried out by tenant), in subsection (2) (cost to be net of grant), for “or repairs grant” substitute “, repairs grant or common parts grant”.
- (3) In section 101 (rent not to be increased on account of improvements carried out by tenant), in the second part of subsection (1) (application of provision where improvement grant-aided), for “or repairs grant” substitute “, repairs grant or common parts grant”.
- 17 In section 244 of the Housing Act 1985 (powers of local housing authority with respect to environmental works in housing action area), in subsection (3) (no assistance for grant-aided works), for “or repairs grant” substitute “, repairs grant or common parts grant”.
- 18 In section 255 of the <sup>M13</sup>Housing Act 1985 (powers of local housing authority in general improvement area), in subsection (2)(b) (no assistance for grant-aided works) for “or repairs grant” substitute “, repairs grant or common parts grant”.

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#### Marginal Citations

**M13** 1985 c. 68.

- 19 In section 535 of the Housing Act 1985 (exclusion of assistance under Part XVI (defective housing) where grant application pending under Part XV), in subsection (1)(a) for “or repairs grant” substitute, “repairs grant or common parts grant”.]

*Status: Point in time view as at 27/05/1997.*

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## SCHEDULE 4

Section 18.

### FURTHER PROVISIONS WITH RESPECT TO SHARED OWNERSHIP LEASES

#### *The Rent Act 1977 (c. 42)*

- 1 (1) Part I of the Rent Act 1977 (preliminary provisions) is amended as follows.
- (2) After section 5 insert—

**“5A Certain shared ownership leases.**

- (1) A tenancy is not a protected tenancy if it is a qualifying shared ownership lease, that is—
- (a) a lease granted in pursuance of the right to be granted a shared ownership lease under Part V of the Housing Act 1985, or
  - (b) a lease granted by a housing association and which complies with the conditions set out in subsection (2) below.
- (2) The conditions referred to in subsection (1)(b) above are that the lease—
- (a) was granted for a term of 99 years or more and is not (and cannot become) terminable except in pursuance of a provision for re-entry or forfeiture;
  - (b) was granted at a premium, calculated by reference to the value of the dwelling-house or the cost of providing it, of not less than 25 per cent., or such other percentage as may be prescribed, of the figure by reference to which it was calculated;
  - (c) provides for the tenant to acquire additional shares in the dwelling-house on terms specified in the lease and complying with such requirements as may be prescribed;
  - (d) does not restrict the tenant’s powers to assign, mortgage or charge his interest in the dwelling-house;
  - (e) if it enables the landlord to require payment for outstanding shares in the dwelling-house, does so only in such circumstances as may be prescribed;
  - (f) provides, in the case of a house, for the tenant to acquire the landlord’s interest on terms specified in the lease and complying with such requirements as may be prescribed; and
  - (g) states the landlord’s opinion that by virtue of this section the lease is excluded from the operation of this Act.
- (3) The Secretary of State may by regulations prescribe anything requiring to be prescribed for the purposes of subsection (2) above.
- (4) The regulations may—
- (a) make different provision for different cases or descriptions of case, including different provision for different areas, and
  - (b) contain such incidental, supplementary or transitional provisions as the Secretary of State considers appropriate,
- and shall be made by statutory instrument which shall be subject to annulment in pursuance of a resolution of either House of Parliament.

*Status:* Point in time view as at 27/05/1997.

**Changes to legislation:** *Housing and Planning Act 1986 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)*

(5) In any proceedings the court may, if of opinion that it is just and equitable to do so, treat a lease as a qualifying shared ownership lease notwithstanding that the condition specified in subsection (2)(g) above is not satisfied.

(6) In this section—

“house” has the same meaning as in Part I of the Leasehold Reform Act 1967;

“housing association” has the same meaning as in the Housing Associations Act 1985; and

“lease” includes an agreement for a lease, and references to the grant of a lease shall be construed accordingly.”

(3) ..... F2

**Textual Amendments**

**F2** Sch. 4 para. 1(3) repealed by [Housing Act 1988 \(c. 50, SIF 61\)](#), s. 140(2), [Sch. 18](#)

*The Rent (Agriculture) Act 1976 (c. 80)*

2 In Schedule 2 to the Rent (Agriculture) Act 1976 (licences and tenancies giving rise to protected occupancy), in paragraph 3 (adaptation of provisions of Rent Act 1977 as they apply for the purposes of the 1976 Act), after sub-paragraph (2) insert—

“(2A) In section 5A (exclusion of certain shared ownership leases), in subsection (2)(g) (condition that lease states landlord’s opinion that 1977 Act does not apply) for the reference to the 1977 Act substitute a reference to this Act.”.

*Part I of the Leasehold Reform Act 1967 (c. 88)*

3 In section 1 of the Leasehold Reform Act 1967 (tenants entitled to enfranchisement or extension), after subsection (1) insert—

“(1A) The references in subsection (1)(a) and (b) to a long tenancy at a low rent do not include a tenancy excluded from the operation of this Part by section 33A of and Schedule 4A to this Act.”.

4 In section 3(2) of the Leasehold Reform Act 1967 after “long tenancy at a low rent” insert “(other than a lease excluded from the operation of this Part by section 33A of and Schedule 4A to this Act)”.

5 After section 33 of the Leasehold Reform Act 1967 insert—

**“33A Exclusion of certain shared ownership leases.**

The provisions of Schedule 4A to this Act shall have effect to exclude certain shared ownership leases from the operation of this Part of this Act”.

6 After Schedule 4 to the Leasehold Reform Act 1967 insert—

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“SCHEDULE  
4A

EXCLUSION OF CERTAIN SHARED OWNERSHIP LEASES

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

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

*Certain leases granted by certain public authorities*

- 2 (1) A lease which—
- (a) was granted at a premium by a body mentioned in sub-paragraph (2), and
  - (b) complies with the conditions set out in sub-paragraph (3),
- is excluded from the operation of this Part at any time when the interest of the landlord belongs to such a body.
- (2) The bodies are—
- (a) a county, district or London borough council, the Common Council of the City of London or the Council of the Isles of Scilly;
  - (b) the Inner London Education Authority or a joint authority established by Part IV of the Local Government Act 1985;
  - (c) the Commission for the New Towns or a development corporation established by an order made, or having effect as made, under the New Towns Act 1981;
  - (d) an urban development corporation within the meaning of Part XVI of the Local Government, Planning and Land Act 1980;
  - (e) the Development Board for Rural Wales;
- (3) The conditions are that the lease—
- (a) provides for the tenant to acquire the freehold for a consideration which is to be calculated in accordance with the lease and which is reasonable, having regard to the premium or premiums paid by the tenant under the lease, and
  - (b) states the landlord’s opinion that by virtue of this paragraph the tenancy will be excluded from the operation of this Part of this Act at any time when the interest of the landlord belongs to a body mentioned in sub-paragraph (2) above.
- (4) If, in proceedings in which it falls to be determined whether a lease complies with the condition in sub-paragraph (3)(a), the question arises whether the consideration payable by the tenant on acquiring the freehold is reasonable, it is for the landlord to show that it is.

*Certain leases granted by housing associations*

- 3 (1) A lease granted by a housing association and which complies with the conditions set out in sub-paragraph (2) is excluded from the operation of this



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Part of this Act, whether or not the interest of the landlord still belongs to such an association.

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

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

“registered housing association” has the same meaning as in the Housing Associations Act 1985.

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*Power to prescribe matters by regulations*

- 5 (1) The Secretary of State may by regulations prescribe anything requiring to be prescribed for the purposes of this Schedule.
- (2) The regulations may—
- (a) make different provision for different cases or descriptions of case, including different provision for different areas, and
  - (b) contain such incidental, supplementary or transitional provisions as the Secretary of State considers appropriate,
- and shall be made by statutory instrument which shall be subject to annulment in pursuance of a resolution of either House of Parliament.

*Interpretation*

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

*Consequential amendments and repeals*

- 7 In the Housing Act 1980, omit section 140.
- 8 In the Local Government, Planning and Land Act 1980, omit section 156(3).
- 9 (1) The Local Government Act 1985 is amended as follows.
- (2) In Schedule 13 (application of local authority provisions to residuary bodies), in paragraph 14, after sub-paragraph (a) insert—
- “(aa) paragraph 2 of Schedule 4A to the Leasehold Reform Act 1967;” and at the end of sub-paragraph (b) insert “and” and omit sub-paragraph (d) and the word “and” preceding it.
- (3) In Schedule 14, omit paragraph 58(e).
- 10 In Part IV of the Housing Act 1985 (secure tenancies), in section 115 (meaning of “long tenancy”), in subsection (2)(c) after “1980” insert “or paragraph 3(2)(b) of Schedule 4A to the Leasehold Reform Act 1967”.

*Transitional provisions and savings*

- 11 (1) The amendments made by this Schedule apply only in relation to leases granted after the commencement of this Schedule.
- (2) This Schedule does not affect the operation of section 140 of the Housing Act 1980, the enactments applying that section and regulations made under it, in relation to leases granted before the commencement of this Schedule.

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## SCHEDULE 5

Section 24(1),(2).

### HOUSING: MINOR AND CONSEQUENTIAL AMENDMENTS

#### PART I

##### MINOR AMENDMENTS

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

- 1 (1) In section 36 of the <sup>M14</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.”.

<sup>F3</sup>(4) .....

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

#### Textual Amendments

**F3** Sch. 5 para. 1(4) repealed (1.10.1996) by S.I. 1996/2325, art. 4, Sch. 1 Pt. I (with art. 4(1)-(3))

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**Marginal Citations**

**M14** 1985 c. 68.

*Acquisition of dwelling-house subject to statutory tenancy*

- 2 In Part IV of the <sup>M15</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**

**M15** 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.”.

*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

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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*

F45 .....

**Textual Amendments**

**F4** 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>M16</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-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**

**M16** 1985 c. 68.

8 ..... F5

**Textual Amendments**

**F5** 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—

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**“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>M17</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**

M17 1985 c. 68.

*Miscellaneous corrections*

- 10 (1) ..... F6
- (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) ..... F6
- (6) In section 10(2)(b) of the <sup>M18</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>M19</sup>Housing (Consequential Provisions) Act 1985 for “(4)”, in both places where it occurs, substitute “(6)”.

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(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**

**F6** 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**

**M18** 1985 c. 69.  
**M19** 1985 c. 71.

11 (1) In sections 80(1)(a) and 81(1)(a), (3)(b) and (4)(b) of the <sup>M20</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**

**M20** 1984 c. 55.

12 In paragraph 14(2) of Schedule 11 and paragraph 8(2) of Schedule 22 to the <sup>M21</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**

**M21** 1985 c. 68.

<sup>F7</sup>13 .....

**Textual Amendments**

**F7** Sch. 5 para. 13 repealed (1.10.1996) by S.I. 1996/2325, art. 4, **Sch. 1 Pt. I** (with art. 4(1)-(3))

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## PART II

### CONSEQUENTIAL AMENDMENTS

14 ..... F8

#### Textual Amendments

**F8** Sch. 5 paras. 14, 17 repealed (S.) by [Housing \(Scotland\) Act 1987 \(c. 26, SIF 61\)](#), ss. 335, 339(3), [Sch. 24](#)

#### *Rent Act 1977*

15 In section 16 of the <sup>M22</sup>Rent Act 1977 (tenancy not protected if interest of landlord belongs to housing co-operative) for the words from “within the meaning of section 27” to the end substitute “within the meaning of section 27B of the Housing Act 1985 (agreements with housing co-operatives under certain superseded provisions) and the dwelling-house is comprised in a housing co-operative agreement within the meaning of that section”.

#### Marginal Citations

**M22** [1977 c. 42.](#)

#### PROSPECTIVE

16 (1) Schedule 12 to the Rent Act 1977 (procedure on application for certificate of fair rent) is amended as follows.

(2) In paragraph (1)(c)—

- (a) after “section 69(1)(a)” insert “or (1A)(b)”;
- (b) after “improvement” insert “or repair”;
- (c) after “regulated” insert “or secure”.

(3) In paragraph 3, after “If,” insert—

“in the case of—

- (a) an application under section 69(1) of this Act where the dwelling-house is not subject to a regulated tenancy, or
- (b) an application under section 69(1A) of this Act where the dwelling-house is not subject to a secure tenancy;”

and omit “unless the dwelling-house is subject to a regulated tenancy”.

(4) In paragraph 4, for the words from “an application” to “regulated tenancy” substitute “—

- (a) an application under section 69(1) of this Act where the dwelling-house is not subject to a regulated tenancy and which does not fall within paragraph 3 above, or
- (b) an application under section 69(1A) of this Act and which does not fall within paragraph 3 above and where the dwelling-house is not subject to a secure tenancy;”.



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(5) In paragraph 5(1), for “Where the dwelling-house is subject to a regulated tenancy” substitute

“In the case of—

- (a) an application under section 69(1) of this Act where the dwelling-house is subject to a regulated tenancy, or
- (b) an application under section 69(1A) of this Act where the dwelling-house is subject to a secure tenancy.”

(6) In paragraphs 8(2) and 11, after “regulated” insert “or secure”.

(7) After paragraph 11 add—

“12 In this Schedule “secure tenancy” has the same meaning as in Part IV of the Housing Act 1985, but does not include such a tenancy where the landlord is the Housing Corporation, a housing association or a housing trust which is a charity.

In this paragraph “housing association”, “housing trust” and “charity” have the same meaning as in Part IV of the Housing Act 1985.”

17 ..... F9

#### Textual Amendments

F9 Sch. 5 paras. 14, 17 repealed (S.) by Housing (Scotland) Act 1987 (c. 26, SIF 61), ss. 335, 339(3), Sch. 24

#### Finance Act 1981

18 In section 107 of the <sup>M23</sup>Finance Act 1981 (stamp duty payable on disposal of dwelling-house at a discount by certain authorities), after subsection (3A) insert—

“(3B) This section also applies to a conveyance or transfer on sale (including the grant of a lease) by a person against whom the right by buy under Part V of the Housing Act 1985 is exercisable by virtue of section 171A of that Act (preservation of right to buy on disposal to private sector landlord) to a person who is the qualifying person for the purposes of the preserved right to buy and in relation to whom that dwelling-house is the qualifying dwelling-house.”

#### Commencement Information

II Sch. 5 para. 18 wholly in force at 17.8.1992 see s. 57 and S.I. 1992/1753, art. 2(2).

#### Marginal Citations

M23 1981 c. 35.

#### Local Government Act 1985

19 In paragraph 22 of Schedule 13 to the <sup>M24</sup>Local Government Act 1985 (provisions of Housing Act 1985 applying to residuary bodies) after “444,” insert “450A to 450C,”.

*Status: Point in time view as at 27/05/1997.*

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**Commencement Information**

**I2** Sch. 5 para. 19 wholly in force at 17.8.1992 see s. 57(2) and S.I. 1992/1753, art. 2(2).

**Marginal Citations**

**M24** 1985 c. 51.

*Housing Act 1985*

**F10**20 .....

**Textual Amendments**

**F10** Sch. 5 para. 20 repealed (1.4.1995) by 1994 c. 29, s. 93, Sch. 9 Pt. I; S.I. 1994/3262, art. 4(1), Sch.

21 In section 20 of the Housing Act 1985 (houses of local authority to which management provisions apply), for “down to section 26” substitute “down to section 27B”.

22 In section 21 of the Housing Act 1985 (management powers to be exercised by local housing authority), in subsection (2) (general proposition subject to section 27), for “(agreements for exercise of housing management functions by co operative)” substitute “(management agreements)”.

23 In section 30 of the Housing Act 1985 (application of housing management provisions to new town corporations and the Development Board for Rural Wales), omit subsection (2) (which relates to section 27: management agreements).

24 Omit section 46 of the Housing Act 1985 (definition of “service charge” for the purposes of certain provisions of Part II).

25 In section 57 of the Housing Act 1985 (the index to Part II), in the entries relating to the expressions “payee and payer”, “relevant costs” and “service charge” for “section 46” substitute “section 621A”.

26 In section 80 of the Housing Act 1985 (the landlord condition for secure tenancies), for subsection (4) (housing co-operatives to which the section applies) substitute—  
 “(4) This section applies to a housing co-operative within the meaning of section 27B (agreements under certain superseded provisions) where the dwelling-house is comprised in a housing co-operative agreement within the meaning of that section.”.

27 In section 117 of the Housing Act 1985 (the index to Part IV) at the appropriate places insert—

“consent (in Schedule 3A)	paragraph 2(3) of that Schedule”
“landlord (in Part V of Schedule 2)	paragraph 5 of that Part”
“management agreement and manager	sections 27(2) and 27B(4)”.

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#### Commencement Information

- I3** Sch. 5 para. 27 partly in force; Sch. 5 para. 27 not in force at Royal Assent see s. 57; Sch. 5 para. 27 partly in force at 17.8.1992 see S.I. 1992/1753, art. 2(2).

- 28 In section 127(1) of the Housing Act 1985, omit the word “and” at the end of paragraph (a).
- 29 In section 130 of the <sup>M25</sup>Housing Act 1985 (reduction of discount where previous discount given), in subsection (2) (meaning of “previous discount”) in paragraph (a) after “7” insert “or 7A” and after that paragraph insert—
- “(aa) on conveyance of the freehold, or a grant or assignment of a long lease of a dwelling-house by a person against whom the right to buy was exercisable by virtue of section 171A (preservation of right to buy on disposal to private sector landlord) to a person who was a qualifying person for the purposes of the preserved right to buy and in relation to whom that dwelling-house was the qualifying dwelling-house, or”.

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

- C1** Sch. 5 para. 29 restricted (11.7.1992) by S.I. 1992/1753, art. 2(2), Sch. para. 2.

#### Commencement Information

- I4** Sch. 5 para. 29 wholly in force at 17.8.1992 see s. 57 and S.I. 1992/1753, art. 2(2).

#### Marginal Citations

- M25** 1985 c. 68.

- 30 (1) Section 187 of the Housing Act 1985 (minor definitions for purposes of Part V (the right to buy)) is amended as follows.
- (2) In the definition of “improvement”—
- (a) after “means” insert “, in relation to a dwelling-house,”,
- (b) for “a dwelling-house”, in both places, substitute “the dwelling-house”, and
- (c) at the end (full-out after paragraph (c)) insert “and shall be similarly construed in relation to any other building or land;”.
- (3) At the appropriate place insert—
- ““improvement contribution” means an amount payable by a tenant of a flat in respect of improvements to the flat, the building in which it is situated or any other building or land, other than works carried out in discharge of any such obligations as are referred to in paragraph 16A(1) of Schedule 6 (obligations to repair, reinstate, etc.);”.
- 31 In section 188 of the Housing Act 1985 (the index to Part V) at the appropriate places insert—
- “disposal and instrument effecting disposal (in Schedule 9A) paragraph 10 of that Schedule”

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“former landlord and former secure tenant (in relation to a qualifying disposal)	section 171A(2)(c)”
“improvement contribution	section 187”
“preserved right to buy	section 171A(2)(a)”
“qualifying disposal (in relation to the preserved right to buy)	section 171A(2)(b)”
“qualifying dwelling-house and qualifying person (in relation to the preserved right to buy)	section 171B(1)”
“reference period (for purposes of s.125A or 125B)	section 125C”
“service charge	section 621A”.

#### Commencement Information

**I5** Sch. 5 para. 31 wholly in force at 17.8.1992 see s. 57 and S.I. 1992/1753, art. 2(2).

32 In Part XIII of the <sup>M26</sup>Housing Act 1985 (general financial provisions), after section 427 insert—

**“427A Entitlement to subsidy in case of land subject to management agreement.**

The fact that a local housing authority or other body has entered into a management agreement, and any letting of land in connection with such an agreement—

- (a) shall be disregarded in determining that authority or body’s reckonable income or expenditure for the purposes of housing subsidy, and
- (b) shall not be regarded as a ground for recovering, withholding or reducing any sum under section 427 (recoupment of housing subsidy).”.

#### Marginal Citations

**M26** 1985 c. 68.

33 In section 434 of the Housing Act 1985 (the index to Part XIII) at the appropriate place insert—

“management agreement sections 27(2) and 27B(4)”.

34 In section 444(4) of the Housing Act 1985 (advances relevant to certain powers of local authority to give assistance), for the words from “by” to the end substitute “a housing authority”.

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

**C2** Sch. 5 para. 34 restricted (11.7.1992) by S.I. 1992/1753, art. 2(2), Sch. para. 3.

**Commencement Information**

**I6** Sch. 5 para. 34 wholly in force at 17.8.1992 see s. 57 and S.I. 1992/1753, art. 2(2).

35 In section 452 of the Housing Act 1985 (vesting of house in authority entitled to exercise power of sale), in subsection (2) omit the definition of “housing authority”.

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

**C3** Sch. 5 para. 35 restricted (11.7.1992) by S.I. 1992/1753, art. 2(2), Sch. para. 4.

**Commencement Information**

**I7** Sch. 5 para. 35 wholly in force at 17.8.1992 see s. 57 and S.I. 1992/1753, art. 2(2).

36 In section 453 of the Housing Act 1985 (power of authority which has granted shared ownership lease to make further advances), omit subsection (2) (which defines “housing authority”).

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

**C4** Sch. 5 para. 36 restricted (11.7.1992) by S.I. 1992/1753, art. 2(2), Sch. para. 4.

**Commencement Information**

**I8** Sch. 5 para. 36 wholly in force at 17.8.1992 see s. 57 and S.I. 1992/1753, art. 2(2).

37 In section 458 of the Housing Act 1985 (minor definitions), at the appropriate place insert—

““housing authority” includes any local authority, an urban development corporation, the Housing Corporation and a registered housing association;”.

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

**C5** Sch. 5 para. 37 restricted (11.7.1992) by S.I. 1992/1753, art. 2(2), Sch. para. 4.

**Commencement Information**

**I9** Sch. 5 para. 37 wholly in force at 17.8.1992 see s. 57 and S.I. 1992/1753, art. 2(2).

38 In section 459 of the Housing Act 1985 (the index to Part XIV), at the appropriate places insert—

“housing authority	sections 4(a) and 458”
“service charge	section 621 A”.

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

**C6** Sch. 5 para. 38 restricted (11.7.1992) by S.I. 1992/1753, art. 2(2), Sch. para. 4.

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### Commencement Information

**I10** Sch. 5 para. 38 wholly in force at 17.8.1992 see s. 57 and S.I. 1992/1753, art. 2(2).

39 After section 621 of the Housing Act 1985 insert—

#### “621A Meaning of “service charge” and related expressions.

- (1) In this Act “service charge” means an amount payable by a purchaser or lessee of premises—
  - (a) which is payable, directly or indirectly, for services, repairs, maintenance or insurance or the vendor’s or lessor’s costs of management, and
  - (b) the whole or part of which varies or may vary according to the relevant costs.
- (2) The relevant costs are the costs or estimated costs incurred or to be incurred by or on behalf of the payee, or (in the case of a lease) a superior landlord, in connection with the matters for which the service charge is payable.
- (3) For this purpose—
  - (a) “costs” includes overheads, and
  - (b) costs are relevant costs in relation to a service charge whether they are incurred, or to be incurred, in the period for which the service charge is payable or in an earlier or later period.
- (4) In relation to a service charge—
  - (a) the “payee” means the person entitled to enforce payment of the charge, and
  - (b) the “payer” means the person liable to pay it.”.

40 (1) Schedule 4 to the <sup>M27</sup>Housing Act 1985 (the qualifying period for the right to buy) is amended as follows.

(2) After paragraph 5 insert—

#### *“ Periods during which right to buy is preserved*

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.”.

(3) In paragraph 7 (the landlord condition for qualifying period)—

- (a) in sub-paragraph (1), in the opening words, after “subject to” insert “paragraph 7A and to”, and omit the words from “a housing co-operative” to “management functions”;

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(b) in sub-paragraph (2), omit the words from “a housing co-operative” to “1975”.

(4) After paragraph 7 insert—

“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 an islands or district council,

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.”.

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

C7 Sch. 5 para. 40(2)(3)(4) restricted (11.7.1992) by S.I. 1992/1753, art. 2(2), Sch. para. 5.

**Commencement Information**

I11 Sch. 5 para. 40 wholly in force at 17.8.1992 see s. 57 and S.I. 1992/1753, art. 2(2).

**Marginal Citations**

M27 1985 c. 68.

41 (1) Paragraph 14 of Schedule 6 to the <sup>M28</sup>Housing Act 1985 (terms of lease granted in pursuance of right to buy: implied covenants by landlord) is amended as follows.

(2) In sub-paragraph (2), omit the words following paragraph (c).

(3) In sub-paragraph (3), for the words from the beginning to “requirement” insert “There is an implied covenant”.

(4) After sub-paragraph (3) insert—

“(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).”.

**Marginal Citations**

M28 1985 c. 68.

*Housing Associations Act 1985*

42 In Part II of the <sup>M29</sup>Housing Associations Act 1985 (financial provisions), after section 69 insert—

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**“69A Land subject to housing management agreement.**

A housing association is not entitled to a housing association grant, revenue deficit grant or hostel deficit grant in respect of land comprised in—

- (a) a management agreement within the meaning of the Housing Act 1985 (see sections 27(2) and 27B(4) of that Act; delegation of housing management functions by certain authorities), or
- (b) an agreement to which section 5 of the Housing Rents and Subsidies (Scotland) Act 1975 applies (agreements for exercise by housing co-operatives of certain local authority housing functions).”.

**Marginal Citations**

**M29** 1985 c. 69.

SCHEDULE 6

Sections 25(2)(3), 26(2), (3).

SIMPLIFIED PLANNING ZONES: FURTHER PROVISIONS

**PARTS I AND II**

... **F11**

**Textual Amendments**

**F11** Sch. 6 Pts. I, II repealed by Planning (Consequential Provisions) Act 1990 (c. 11, SIF 123:1, 2), s. 3, Sch. 1 Pt. I, Sch. 3 paras. 1, 2, 4, 6

**<sup>F12</sup>PART III**

**Textual Amendments**

**F12** Sch. 6 Pt. III repealed (27.5.1997) by 1997 c. 11, ss. 3, 6(2), **Sch. 1 Pt. I** (with s. 5, Sch. 3)

SCHEDULE 6A

SIMPLIFIED PLANNING ZONE SCHEMES

**<sup>F13</sup>PART IV**

.....



*Status: Point in time view as at 27/05/1997.*

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**Textual Amendments**

**F13** Sch. 6 Pt. IV repealed (27.5.1997) by 1997 c. 11, ss. 3, 6(2), **Sch. 1 Pt. I** (with s. 5 Sch. 3)

SCHEDULE 7

Sections 33 and 37.

HAZARDOUS SUBSTANCES: CONSEQUENTIAL AMENDMENTS

**PART I**

F14  
...

**Textual Amendments**

**F14** Sch. 7 Pt. I repealed by Planning (Consequential Provisions) Act 1990 (c. 11, SIF 123:1, 2), s. 3, Sch. 1 Pt. I, Sch. 3 paras. 1, 2, 4, 6

<sup>F15</sup>**PART II**

**Textual Amendments**

**F15** Sch. 7 Pt. II repealed (27.5.1997) by 1997 c. 11, ss. 3, 6(2), **Sch. 1 Pt. I** (with s. 5, Sch. 3)

SCHEDULE 8

Section 39(3).

OPENCAST COAL — MISCELLANEOUS AMENDMENTS

**PART I**

THE 1958 ACT

**F18**<sub>1</sub> .....

**Textual Amendments**

**F18** Sch. 8 para. 1 repealed (31.10.1994) by 1994 c. 21, ss. 67, 68(2), **Sch. 11 Pt. II** (with s. 40(7)); S.I. 1994/2553, art. 2

- 2 (1) In section 4(1), for the words “the land comprised in an authorisation under section 1 of this Act” there shall be substituted the words “any land on which they desire to work coal by such operations or to carry out operations incidental to such working”.

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(2) The following subsections shall be substituted for section 4(6)—

- “(6) A compulsory rights order may only be made if opencast planning permission has been applied for or granted in respect of the land comprised in the order or is deemed to have been granted in respect of it.
- (6A) Where a compulsory rights order is made before opencast planning permission has been granted in respect of the land comprised in the order, the Secretary of State shall not confirm it unless such permission in respect of that land has first been granted.
- (6B) Where a compulsory rights order is made in a case where opencast planning permission has been granted or is deemed to have been granted, the order, as from the time when it is made, shall include a reference to the permission.
- (6C) If opencast planning permission is granted in respect of land comprised in a compulsory rights order and the Secretary of State subsequently confirms the order, the order as confirmed shall include a reference to the permission.
- (6D) No compulsory rights order, as confirmed, shall extend to any land which is not comprised in the permission or deemed permission referred to in the order.”

3 In section 5(5)—

- (a) for the word “authorisation” there shall be substituted the words “opencast planning permission”; and
- (b) for the words “fulfilment of the authorised purposes” there shall be substituted the words “permitted activities.”

F194

**Textual Amendments**

**F19** Sch. 8 para. 4 repealed (31.10.1994) by 1994 c. 21, ss. 67, 68(2), Sch. 11 Pt. II (with s. 40(7)); S.I. 1994/2553, art. 2

5 The following sections shall be substituted for section 14—

**“14 Provisions as to agricultural tenancies in England and Wales.**

- (1) Without prejudice to the provisions of Part III of this Act as to matters arising between landlords and tenants in consequence of compulsory rights orders, the provisions of this section shall have effect where—
- (a) opencast planning permission has been granted subject to a restoration condition and to an aftercare condition in which the use specified is use for agriculture or use for forestry, and
- (b) immediately before that permission is granted, any of the land comprised therein consists of an agricultural holding or part of an agricultural holding,
- whether any of that land is comprised in a compulsory rights order or not.
- (2) For the purposes of the Agricultural Holdings Act 1986 (in this Act referred to as “the Act of 1986”)—

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- (a) the holding shall not be taken to have ceased to be an agricultural holding; and
  - (b) where only part of the holding is comprised in opencast planning permission, that part shall not be taken to have ceased to form part of an agricultural holding,by reason only that, while occupied or used for the permitted activities, the land is not being used for agriculture within the meaning of that Act.
- (3) For the purposes of the Act of 1986, the tenant of the holding shall not be taken to have failed to fulfill his responsibilities to farm in accordance with the rules of good husbandry—
  - (a) by reason of his having permitted any of the land comprised in the opencast planning permission to be occupied for the purpose of carrying on any of the permitted activities, or by reason of any other thing done or omitted by him for facilitating the use of any of that land for that purpose;
  - (b) where any of that land is comprised in a compulsory rights order, by reason of the occupation or use of any of that land in the exercise of rights conferred by the order, in so far as that occupation or use was not permitted or facilitated by the tenant as mentioned in the preceding paragraph.
- (4) For the purposes of the Act of 1986 nothing done or omitted by the tenant or by the landlord of the holding by way of permitting any of the land in respect of which opencast planning permission has been granted to be occupied for the purpose of carrying on any of the permitted activities, or by way of facilitating the use of any of that land for that purpose, shall be taken to be a breach of any term or condition of the tenancy, either on the part of the tenant or on the part of the landlord.
- (5) For the purposes of subsections (1) to (3) of section 27 of the Act of 1986 (Agricultural Land Tribunal’s consent to operation of notice to quit) the condition specified in paragraph (f) of subsection (3) of that section shall not be treated as satisfied if the use for the purpose for which the landlord proposes to terminate the tenancy is the use of the land for carrying on any of the permitted activities.
- (6) On a reference to arbitration under section 12 of the Act of 1986 with respect to the rent which should be properly payable for the holding, in respect of any period for which the Board are in occupation of the holding, or of any part thereof, for the purpose of carrying on any of the permitted activities, the arbitrator shall not take into account any increase or diminution in the rental value of the holding in so far as that increase or diminution is attributable to the occupation of the holding, or of that part of the holding, by the Board for the purpose of carrying on any of the permitted activities.
- (7) For the purpose of the operation of section 13 of the Act of 1986 (increases of rent for landlord’s improvements) in relation to improvements carried out on the holding, in a case where the improvements have been affected by anything done for the purpose of carrying on any of the permitted activities, the increase (if any) of the rental value of the holding attributable to the carrying out of the improvements shall be assessed as if it had not been done.
- (8) This section does not extend to Scotland.

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#### **14A Provisions as to agricultural tenancies in Scotland.**

- (1) Without prejudice to the provisions of Part III of this Act as to matters arising between landlords and tenants in consequence of compulsory rights orders, the provisions of this section shall have effect in Scotland where—
- (a) opencast planning permission has been granted subject to a restoration condition and to an aftercare condition in which the use specified is use for agriculture, and
  - (b) immediately before that permission is granted, any of the land comprised therein consists of an agricultural holding or part of an agricultural holding,
- whether any of that land is comprised in a compulsory rights order or not.
- (2) In this section—
- “aftercare condition” means a condition requiring that such steps shall be taken as may be necessary to bring land to the standard required for use for agriculture; and
- “restoration condition” has the meaning given to it in section 27A(2) of the Town and Country Planning (Scotland) Act 1972.
- (3) For the purposes of the Agricultural Holdings (Scotland) Act 1949 (in this Act referred to as “the Scottish Act of 1949”)—
- (a) the holding shall not be taken to have ceased to be an agricultural holding; and
  - (b) where only part of the holding is comprised in the opencast planning permission, that part shall not be taken to have ceased to form part of an agricultural holding,
- by reason only that, while occupied or used for the permitted activities, the land is not being used for agriculture within the meaning of that Act.
- (4) For the purposes of the Scottish Act of 1949, the tenant of the holding shall not be taken to have failed to fulfil his responsibilities to farm in accordance with the rules of good husbandry—
- (a) by reason of his having permitted any of the land comprised in the opencast planning permission to be occupied for the purpose of carrying on any of the permitted activities, or by reason of any other thing done or omitted by him for facilitating the use of any of that land for that purpose;
  - (b) where any of that land is comprised in a compulsory rights order, by reason of the occupation or use of any of that land in the exercise of rights conferred by the order, in so far as that occupation or use was not permitted or facilitated by the tenant as mentioned in the preceding paragraph.
- (5) For the purposes of the Scottish Act of 1949 nothing done or omitted by the tenant or by the landlord of the holding by way of permitting any of the land in respect of which opencast planning permission has been granted to be occupied for the purpose of carrying on any of the permitted activities, or by way of facilitating the use of any of that land for that purpose, shall be

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taken to be a breach of any term or condition of the tenancy, either on the part of the tenant or on the part of the landlord.

- (6) For the purposes of section 25(2) of the Scottish Act of 1949, no account is to be taken of permission granted as mentioned in paragraph (c) of that subsection if the permission—
- (a) is granted on an application by the National Coal Board; and
  - (b) relates to the working of coal by opencast operations; and
  - (c) is granted subject to a restoration condition and an aftercare condition.
- (7) For the purposes of section 26 of the Scottish Act of 1949 (in which subsection (1) specifies conditions for the giving of consent under section 25 of that Act to the operation of a notice to quit) the condition specified in paragraph (e) of subsection (1) shall not be treated as satisfied if the use for the purpose of which the landlord proposes to terminate the tenancy is the use of the land for carrying on any of the permitted activities.
- (8) On a reference to arbitration under section 7 of the Scottish Act of 1949 with respect to the rent which should be properly payable for the holding, in respect of any period for which the Board are in occupation of the holding, or of any part thereof, for the purpose of carrying on any of the permitted activities, the arbiter shall not take into account any increase or diminution in the rental value of the holding in so far as that increase or diminution is attributable to the occupation of the holding, or of that part of the holding, by the Board for the purpose of carrying on any of the permitted activities.
- (9) For the purpose of the operation of section 8 of the Scottish Act of 1949 (which relates to increases of rent for improvements carried out by the landlord) in relation to an improvement carried out on the holding, in a case where the improvement has been affected by anything done for the purpose of carrying on any of the permitted activities, the increase (if any) of the rental value of the holding attributable to the carrying out of the improvement shall be assessed as if the improvement had not been so affected.
- (10) The use of land for the working of coal by opencast operations shall not be a use for the purposes of which a landlord shall be entitled to resume the land.”.

6 The following sections shall be substituted for section 15—

**“15 Suspension of certain public rights of ways.**

- (1) Where—
- (a) the Board apply for opencast planning permission; and
  - (b) over any part of the land to which the application relates there subsists a public right of way, not being a right enjoyed by vehicular traffic,
- the Board may also apply to the Secretary of State for an order suspending the public right of way.
- (2) The Secretary of State shall not make such an order unless—
- (a) opencast planning permission is granted; and
  - (b) he is satisfied—

*Status: Point in time view as at 27/05/1997.*

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- (i) that a suitable alternative way will be made available by the Board (whether on land comprised in the opencast planning permission or on other land) for use by the public during the period for which the order remains in force; or
  - (ii) that the provision of such an alternative way is not required.
- (3) An order under this section shall specify the date, which shall not be earlier than the making of the order, with effect from which the right of way is suspended.
- (4) Where an order has been made under this section the Secretary of State shall revoke it—
- (a) if—
    - (i) no permitted activities have been carried on pursuant to the opencast planning permission on the land over which the right of way subsisted; and
    - (ii) he is satisfied that there is no early prospect of such activities being so carried on; or
  - (b) as soon after such permitted activities have been so carried on as he is satisfied that it is no longer necessary for the purpose of carrying on such permitted activities that the right of way should be suspended.
- (5) An order under this section shall include such provisions as may appear to the Secretary of State to be appropriate for securing the reconstruction of the way on the restoration of the land over which the right of way subsisted immediately before the order was made.
- (6) Where an order is made under this section then, in connection with the provision of such a suitable alternative way as is referred to in subsection (2) above,—
- (a) the order under this section may provide that, in so far as the carrying out of any operations, or any change in the use of land, involved in making the alternative way available or in permitting it to be used by the public, constitutes development within the meaning of the Act of 1971, permission for that development shall be deemed to be granted under Part III of that Act subject to such conditions (if any) as may be specified in the order;
  - (b) where the order under this section includes provisions in accordance with paragraph (a) above, the Act of 1971 shall have effect as if they were conditions subject to which the opencast planning permission was granted;
  - (c) if a compulsory rights order referring to the opencast planning permission is made, then, in the application to that order of section 5(5) above, the permitted activities shall be taken to include making an alternative way available for use by the public, and the right exercisable in accordance with that subsection, as against all persons directly concerned, shall include the right to permit the public to use any way so made available; and
  - (d) if the land on which the alternative way is to be made available is specified in the order under this section and is land which does not form part of, but it contiguous with, the land to which the opencast

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planning permission relates, a compulsory rights order referring to the opencast planning permission may include that land as if it were part of the land comprised in the permission.

- (7) In the application of this section to Scotland, it shall be read as if for “the Act of 1971” there were substituted “the Town and Country Planning (Scotland) Act 1972”.

### **15A Suspension of public rights of way—supplementary.**

- (1) Before submitting to the Secretary of State an application for an order under section 15 of this Act, the Board shall publish a notice in the prescribed form identifying the right of way and stating—
- (a) that the Board are proposing to apply for an order suspending it in connection with the working of coal by opencast operations;
  - (b) that opencast planning permission has been applied for, or, as the case may be, has been granted; and
  - (c) that objections to the application for the order may be made in writing to the Secretary of State within such time, not being less than 28 days from the publication of the notice, as may be specified.
- (2) The duty to publish a notice imposed by subsection (1) above is a duty to publish it—
- (a) in two successive weeks in one or more local newspapers circulating in the locality in which the land over which the right of way subsists is situated; and
  - (b) in the same or any other two successive weeks, in the appropriate Gazette.
- (3) The period within which objections may be made expires when the period specified in the last publication of the notice expires; and any period specified in earlier publications is to be treated as extended accordingly.
- (4) A notice under subsection (1) above shall name a place in the locality where a copy of the application and of a map showing the right of way can be inspected.
- (5) The Board shall also, before submitting such an application to the Secretary of State,—
- (a) inform—
    - (i) in England and Wales, the district council and, except in the case of a metropolitan district, the county council, and any parish or community council or parish meeting; and
    - (ii) in Scotland, every local authority in whose area any part of the land over which the right of way subsists is situated of the right to object conferred by subsection (1) above;
  - (b) send them a map showing the right of way and a copy of their notice under subsection (1) above; and
  - (c) affix to some conspicuous object at either end of the right of way a notice giving in the prescribed form the prescribed particulars of their proposed application concerning it and of the right to object.

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- (6) If no objection is made by any such authority, other than a parish or community council or parish meeting, as is mentioned in subsection (5) (a) above, or if all objections which are made by any such authority are withdrawn, the Secretary of State, upon being satisfied that the Board have complied with subsections (1) to (5) above, may if he thinks fit make the order.
- (7) The Secretary of State may, if he thinks fit, cause a public local inquiry to be held before determining whether to make an order, and shall cause such an inquiry to be held if an objection is made by any such authority and is not withdrawn.
- (8) If the Secretary of State causes such an inquiry to be held, he shall consider all objections to the application which are duly made by any person and not withdrawn and the report of the person who held the inquiry before determining whether to make the order.
- (9) An order under section 15 of this Act may be made either in accordance with the Board's application or subject to such modifications as the Secretary of State may determine.
- (10) If the Secretary of State makes an order, the Board, as soon as may be after the order is made, shall publish a notice in the prescribed form that the order has been made, describing the right of way which is suspended, stating the date on which the order comes into operation and naming a place in the locality where a copy of the order and of any map to which it refers can be inspected at all reasonable hours, and shall serve a like notice and a copy of the order on any body required under this section to be informed of the application for the order.
- (11) The duty to publish a notice imposed by subsection (10) above is a duty to publish it—
- (a) in one or more local newspapers such as are mentioned in subsection (1) above; and
  - (b) in the appropriate Gazette.
- (12) In this section “the appropriate Gazette” means—
- (a) the London Gazette in a case where the land over which the right of way subsists is situated in England or Wales; and
  - (b) the Edinburgh Gazette in a case where it is situated in Scotland.”.

7

In section 16—

- (a) in subsections (1) and (2), for the words from “which” to “Act” there shall be substituted the words “in respect of which opencast planning permission has been granted”;
- (b) in subsection (3), for the words from “comprised” to “Act” there shall be substituted the words “in respect of which the permission was granted”.



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**Textual Amendments**

**F20** Sch. 8 para. 8 repealed (24.12.1994) by 1994 c. 21, s. 67, Sch. 11 Pt. III (with s. 40(7)); S.I. 1994/3063, art. 1(2)

- 9 In section 38—
- (a) in paragraph (a)—
    - (i) for the words from “which” to “Act” there shall be substituted the words “in respect of which opencast planning permission has been granted”; and
    - (ii) for the words “authorised purposes” there shall be substituted the words “purpose of carrying on the permitted activities”;
  - (b) in paragraph (b), for the words “comprised in the authorisation” there shall be substituted the words “in respect of which the permission was granted and”; and
  - (c) for the words from “fulfilment” to the end of the subsection there shall be substituted the words “permitted activities”
- 10 In section 39(3)—
- (a) in paragraph (a), for the words “an authorisation under section one of this Act” there shall be substituted the words “opencast planning permission”;
  - (b) in paragraph (b)—
    - (i) for the words from “an” to “Act”, in the first place where it occurs, there shall be substituted the words “opencast planning permission”; and
    - (ii) for the words “out of any authorised operations” there shall be substituted the words “on of any of the permitted activities”; and
  - (c) in paragraph (d), for the words “any of the provisions of the First” there shall be substituted the words “section 15A(4)(c) or any of the provisions of the”.
- 11 In the proviso to section 39(5), for the words “any of the provisions of the First” there shall be substituted the words “section 15A(4)(c) or any of the provisions of the”.
- 12 In section 45(2)—
- (a) for the words from “an” to “Act” there shall be substituted the words “opencast planning permission has been granted”, <sup>F21</sup> . . .
  - (b) . . . . .

**Textual Amendments**

**F21** Sch. 8 para. 12(b) and the preceding “and” repealed (31.10.1994) by 1994 c. 21, ss. 67, 68(2), Sch. 11 Pt. II (with s. 40(7)); S.I. 1994/2553, art. 2

- 13 In section 51(1)—
- (a) the following definition shall be inserted after the definition of “National Trust”—

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““opencast planning permission” means planning permission which permits the Board to work coal by opencast operations or to carry out operations incidental to such working;”;

- (b) the following definition shall be inserted after the definition of “period of occupation”—

““permitted activities” means—

(a) the working of coal by opencast operations pursuant to opencast planning permission and the carrying out of operations incidental to such working; and

(b) the carrying out of any conditions subject to which opencast planning permission has been granted;”;

- (c) the following definition shall be inserted after the definition of “persons directly concerned”—

““planning permission” means planning permission under Part III of the Act of 1971;”.

- 14 In section 52(2), the following definition shall be inserted after the definition of “owner”—

““planning permission” means planning permission under Part III of the Act of 1972 ;”.

- 15 In paragraph 5(1) of Part I of Schedule 2 (compulsory rights orders)—

- (a) for the words “an authorisation under section one of this Act” there shall be substituted the words “ opencast planning permission ” ; and  
 (b) for the words from “an authorisation”, in the second place where those words occur, to “operations” there shall be substituted the words “ opencast planning permission should be granted or should have been granted. ”.

- 16 In Schedule 6, in paragraph 18(2)(c), for the words from “purposes”, in the first place where it occurs, to the end there shall be substituted the words “ activities which, in relation to the opencast planning permission referred to in the order, constitute the permitted activities ”.

- 17 In Schedule 7, in paragraph 24(3)(a)—

- (a) for the word “authorisation”, in the first place where it occurs, there shall be substituted the words “ opencast planning permission ” ; and  
 (b) for the words “had been made for such an authorisation” there shall be substituted the words “ for opencast planning permission had been made ”.

## PART II

### ACQUISITION OF LAND ACT 1981 (C. 67)

- 18 In section 29—

- (a) in subsection (6)—

(i) for the words “an authorisation under section 1 of the Opencast Coal Act 1958” there shall be substituted the words “opencast planning permission”; and

(ii) for the words from “an authorisation”, in the second place where they occur, to “operations” there shall be substituted the words

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- “opencast planning permission should be granted or should have been granted”; and
- (b) the following subsection shall be substituted for subsection (11)—
- “(11) In this section “opencast planning permission” and “persons directly concerned” have the same meaning as in the Opencast Coal Act 1958.”.

## SCHEDULE 9

Sections 40 and 50.

### LISTED BUILDINGS AND CONSERVATION AREAS

#### PART I

##### ENGLAND AND WALES

1—5. . . . . F22

#### Textual Amendments

**F22** Sch. 9 paras. 1–5, 6(1), 7–12 repealed by [Planning \(Consequential Provisions\) Act 1990 \(c. 11, SIF 123:1, 2\)](#), s. 3, Sch. 1 Pt. I, Sch. 3 paras. 1, 2, 4, 6

#### *Dangerous structure orders in respect of listed buildings*

6 (1) . . . . . F23

- (2) In sections 77 and 79 of the <sup>M32</sup>Building Act 1984 and in sections 62, 65 and 69 of the <sup>M33</sup>London Building Acts (Amendment) Act 1939 insert as the final subsection—

“( ) This section has effect subject to the provisions of the Town and Country Planning Act 1971 relating to listed buildings, buildings subject to building preservation orders and buildings in conservation areas.”.

#### Textual Amendments

**F23** Sch. 9 paras. 1–5, 6(1), 7–12 repealed by [Planning \(Consequential Provisions\) Act 1990 \(c. 11, SIF 123:1, 2\)](#), s. 3, Sch. 1 Pt. I, Sch. 3 paras. 1, 2, 4, 6

#### Marginal Citations

**M32** 1984 c. 55.

**M33** 1939 c. xcvi ii.

7–12 . . . . . F24

*Status: Point in time view as at 27/05/1997.*

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**Textual Amendments**

**F24** Sch. 9 paras. 1–5, 6(1), 7–12 repealed by [Planning \(Consequential Provisions\) Act 1990 \(c. 11, SIF 123:1, 2\), s. 3, Sch. 1 Pt. I, Sch. 3 paras. 1, 2, 4, 6](#)

**F25** **PART II**

**Textual Amendments**

**F25** Sch. 9 paras. 13–24 (Pt. II) repealed (27.5.1997) by [1997 c. 11, ss. 3, 6\(2\) Sch. 1 Pt. I \(with s. 5, Sch. 3\)](#)

SCHEDULE 10

**F26**

**Textual Amendments**

**F26** Sch. 10 and Sch. 11 paras. 1–24, 26, 27 repealed by [Planning \(Consequential Provisions\) Act 1990 \(c. 11, SIF 123:1, 2\), s. 3, Sch. 1 Pt. I, Sch. 3 paras. 1, 2, 4, 6](#)

SCHEDULE 11

Sections 49 and 53.

PLANNING: MINOR AND CONSEQUENTIAL AMENDMENTS

**PART I**

ENGLAND AND WALES

1—21. . . . . **F27**

**Textual Amendments**

**F27** Sch. 10 and Sch. 11 paras. 1–24, 26, 27 repealed by [Planning \(Consequential Provisions\) Act 1990 \(c. 11, SIF 123:1, 2\), s. 3, Sch. 1 Pt. I, Sch. 3 paras. 1, 2, 4, 6](#)

*Consequential amendments of other enactments*

22—24. . . . . **F28**

*Status: Point in time view as at 27/05/1997.*

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### Textual Amendments

**F28** Sch. 10 and Sch. 11 paras. 1–24, 26, 27 repealed by [Planning \(Consequential Provisions\) Act 1990 \(c. 11, SIF 123:1, 2\)](#), s. 3, Sch. 1 Pt. I, Sch. 3 paras. 1, 2, 4, 6

- 25 (1) The <sup>M41</sup>Industrial Development Act 1982 is amended as follows.
- (2) In section 14 (power of Secretary of State to provide premises and sites), in subsection (2) (restriction on acquisition of buildings) for “section 66 of the Town and Country Planning Act 1971” substitute “section 14A of this Act”.
- (3) After that section insert—

#### “14A Meaning of “industrial buildings”.

- (1) In section 14(2) of this Act “industrial building” means a building which is used or designed for use for carrying on, in the course of a trade or business, a process for or incidental to any of the following purposes—
- (a) the making of any article or part of any article,
  - (b) the altering, repairing, ornamenting, finishing, cleaning, washing, freezing, packing or canning, or adapting for sale, or breaking up or demolition, of any article, or
  - (c) the getting, dressing or preparation for sale of minerals or the extraction or preparation for sale of oil or brine,
- or which is used or designed for use for carrying on, in the course of a trade or business, scientific research.
- (2) For the purposes of subsection (1) premises which—
- (a) are used or designed for use for providing services or facilities ancillary to the use of other premises for the carrying on of any such process or research as is mentioned in that subsection, and
  - (b) are or are to be comprised in the same building or the same curtilage as those other premises,
- shall themselves be treated as used or designed for use for the carrying on of such a process or, as the case may be, of such research.
- (3) In this section—
- “article” means an article of any description, including a ship or vessel;
  - “building” includes part of a building;
  - “minerals” includes all minerals and substances in or under land of a kind ordinarily worked for removal by underground or surface working, except that it does not include peat cut for purposes other than sale;
  - “scientific research” means any activity in the fields of natural or applied science for the extension of knowledge.”.

### Marginal Citations

**M41** 1982 c. 52.

*Status: Point in time view as at 27/05/1997.*

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26, 27. . . . . F29

**Textual Amendments**  
**F29** Sch. 10 and Sch. 11 paras. 1–24, 26, 27 repealed by [Planning \(Consequential Provisions\) Act 1990 \(c. 11, SIF 123:1, 2\)](#), s. 3, Sch. 1 Pt. I, Sch. 3 paras. 1, 2, 4, 6

**PART II**

SCOTLAND

*Directions as to modifications of local plans*

F30 28 . . . . .

**Textual Amendments**  
**F30** Sch. 11 para. 28 repealed (27.5.1997) by [1997 c. 11, ss. 3, 6\(2\)](#), [Sch. 1 Pt. 1](#) (with s. 5, Sch. 3)

*Operation of Use Classes Order on subdivision of planning unit*

F31 29 . . . . .

**Textual Amendments**  
**F31** Sch. 11 para. 29 repealed (27.5.1997) by [1997 c. 11, ss. 3, 6\(2\)](#), [Sch. 1 Pt. 1](#) (with s. 5, Sch. 3)

*Development orders*

F32 30 . . . . .

**Textual Amendments**  
**F32** Sch. 11 para. 30 repealed (27.5.1997) by [1997 c. 11, ss. 3, 6\(2\)](#), [Sch. 1 Pt. 1](#) (with s. 5, Sch. 3)

*Applications to vary or revoke conditions attached to planning permission*

F33 31 . . . . .

**Textual Amendments**  
**F33** Sch. 11 para. 31 repealed (27.5.1997) by [1997 c. 11, ss. 3, 6\(2\)](#), [Sch. 1 Pt. 1](#) (with s. 5, Sch. 3)

*Land adversely affecting amenity of neighbourhood*

F34 32 . . . . .

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**Textual Amendments**

**F34** Sch. 11 para. 32 repealed (27.5.1997) by 1997 c. 11, ss. 3, 6(2), Sch. 1 Pt. 1 (with s. 5, Sch. 3)

<sup>F35</sup>33 .....

**Textual Amendments**

**F35** Sch. 11 para. 33 repealed (27.5.1997) by 1997 c. 11, ss. 3, 6(2), Sch. 1 Pt. 1 (with s. 5, Sch. 3)

*Appeals against notices under section 63A*

<sup>F36</sup>34 .....

**Textual Amendments**

**F36** Sch. 11 para. 34 repealed (27.5.1997) by 1997 c. 11, ss. 3, 6(2), Sch. 1 Pt. 1 (with s. 5, Sch. 3)

*Purchase notices : transmission of documents to the Secretary of State*

<sup>F37</sup>35 .....

**Textual Amendments**

**F37** Sch. 11 para. 35 repealed (27.5.1997) by 1997 c. 11, ss. 3, 6(2), Sch. 1 Pt. 1 (with s. 5, Sch. 3)

*Purchase notice relating to land where use restricted by virtue of previous planning permission*

<sup>F38</sup>36 .....

**Textual Amendments**

**F38** Sch. 11 para. 36 repealed (27.5.1997) by 1997 c. 11, ss. 3, 6(2), Sch. 1 Pt. 1 (with s. 5, Sch. 3)

*Consideration of purchase notice concurrently with related planning appeal*

<sup>F39</sup>37 .....

**Textual Amendments**

**F39** Sch. 11 para. 37 repealed (27.5.1997) by 1997 c. 11, ss. 3, 6(2), Sch. 1 Pt. 1 (with s. 5, Sch. 3)

*National Scenic Areas*

<sup>F40</sup>38 .....

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**Textual Amendments**

**F40** Sch. 11 para. 38 repealed (27.5.1997) by 1997 c. 11, ss. 3, 6(2), Sch. 1 Pt. 1 (with s. 5, Sch. 3)

*Recovery of expenses of local inquiry*

F41<sup>39</sup> .....

**Textual Amendments**

**F41** Sch. 11 para. 39 repealed (27.5.1997) by 1997 c. 11, ss. 3, 6(2), Sch. 1 Pt. 1 (with s. 5, Sch. 3)

*Orders as to expenses of parties where no local inquiry held*

F42<sup>40</sup> .....

**Textual Amendments**

**F42** Sch. 11 para. 40 repealed (27.5.1997) by 1997 c. 11, ss. 3, 6(2), Sch. 1 Pt. 1 (with s. 5, Sch. 3)

*Procedure on applications and appeals disposed of without inquiry or hearing*

F43<sup>41</sup> .....

**Textual Amendments**

**F43** Sch. 11 para. 41 repealed (27.5.1997) by 1997 c. 11, ss. 3, 6(2), Sch. 1 Pt. 1 (with s. 5, Sch. 3)

*Power to return appeal for determination by appointed person*

F44<sup>42</sup> .....

**Textual Amendments**

**F44** Sch. 11 para. 42 repealed (27.5.1997) by 1997 c. 11, ss. 3, 6(2), Sch. 1 Pt. 1 (with s. 5, Sch. 3)

*Appointment of assessors*

F45<sup>43</sup> .....

**Textual Amendments**

**F45** Sch. 11 para. 43 repealed (27.5.1997) by 1997 c. 11, ss. 3, 6(2), Sch. 1 Pt. 1 (with s. 5, Sch. 3)



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*Increase of daily penalties for offences*

F46 44 .....

**Textual Amendments**

F46 Sch. 11 para. 44 repealed (27.5.1997) by 1997 c. 11, ss. 3, 6(2), Sch. 1 Pt. 1 (with s. 5, Sch. 3)

*Other minor amendments of the Town and Country Planning (Scotland) Act 1972*

F47 45 .....

**Textual Amendments**

F47 Sch. 11 para. 45 repealed (27.5.1997) by 1997 c. 11, ss. 3, 6(2), Sch. 1 Pt. 1 (with s. 5, Sch. 3)

F48 46 .....

**Textual Amendments**

F48 Sch. 11 para. 46 repealed (27.5.1997) by 1997 c. 11, ss. 3, 6(2), Sch. 1 Pt. 1 (with s. 5, Sch. 3)

F49 47 .....

**Textual Amendments**

F49 Sch. 11 para. 47 repealed (27.5.1997) by 1997 c. 11, ss. 3, 6(2), Sch. 1 Pt. 1 (with s. 5, Sch. 3)

F50 48 .....

**Textual Amendments**

F50 Sch. 11 para. 48 repealed (27.5.1997) by 1997 c. 11, ss. 3, 6(2), Sch. 1 Pt. 1 (with s. 5, Sch. 3)

F51 49 .....

**Textual Amendments**

F51 Sch. 11 para. 49 repealed (27.5.1997) by 1997 c. 11, ss. 3, 6(2), Sch. 1 Pt. 1 (with s. 5, Sch. 3)

F52 50 .....

**Textual Amendments**

F52 Sch. 11 para. 50 repealed (27.5.1997) by 1997 c. 11, ss. 3, 6(2), Sch. 1 Pt. 1 (with s. 5, Sch. 3)

F53 51 .....

*Status: Point in time view as at 27/05/1997.*

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**Textual Amendments**

**F53** Sch. 11 para. 51 repealed (27.5.1997) by 1997 c. 11, ss. 3, 6(2), Sch. 1 Pt. 1 (with s. 5, Sch. 3)

<sup>F54</sup>52 .....

**Textual Amendments**

**F54** Sch. 11 para. 52 repealed (27.5.1997) by 1997 c. 11, ss. 3, 6(2), Sch. 1 Pt. 1 (with s. 5, Sch. 3)

<sup>F55</sup>53 .....

**Textual Amendments**

**F55** Sch. 11 para. 53 repealed (27.5.1997) by 1997 c. 11, ss. 3, 6(2), Sch. 1 Pt. 1 (with s. 5, Sch. 3)

*Consequential amendments of the Town and Country Planning (Scotland) Act 1972*

<sup>F56</sup>54 .....

**Textual Amendments**

**F56** Sch. 11 para. 54 repealed (27.5.1997) by 1997 c. 11, ss. 3, 6(2), Sch. 1 Pt. 1 (with s. 5, Sch. 3)

<sup>F57</sup>55 .....

**Textual Amendments**

**F57** Sch. 11 para. 55 repealed (27.5.1997) by 1997 c. 11, ss. 3, 6(2), Sch. 1 Pt. 1 (with s. 5, Sch. 3)

<sup>F58</sup>56 .....

**Textual Amendments**

**F58** Sch. 11 para. 56 repealed (27.5.1997) by 1997 c. 11, ss. 3, 6(2), Sch. 1 Pt. 1 (with s. 5, Sch. 3)

<sup>F59</sup>57 .....

**Textual Amendments**

**F59** Sch. 11 para. 57 repealed (27.5.1997) by 1997 c. 11, ss. 3, 6(2), Sch. 1 Pt. 1 (with s. 5, Sch. 3)

<sup>F60</sup>58 .....

**Textual Amendments**

**F60** Sch. 11 para. 58 repealed (27.5.1997) by 1997 c. 11, ss. 3, 6(2), Sch. 1 Pt. 1 (with s. 5, Sch. 3)

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F61 59 .....

**Textual Amendments**

F61 Sch. 11 para. 59 repealed (27.5.1997) by 1997 c. 11, ss. 3, 6(2), Sch. 1 Pt. 1 (with s. 5, Sch. 3)

F62 60 .....

**Textual Amendments**

F62 Sch. 11 para. 60 repealed (27.5.1997) by 1997 c. 11, ss. 3, 6(2), Sch. 1 Pt. 1 (with s. 5, Sch. 3)

*Consequential amendments of other enactments*

61 In subsection (5) of section 179 (reference of applications to regional planning authority) of the <sup>M42</sup>Local Government (Scotland) Act 1973, after “27A” insert “28A,”.

**Marginal Citations**

M42 1973 c. 65.

F63 62 .....

**Textual Amendments**

F63 Sch. 11 para. 62 repealed (27.5.1997) by 1997 c. 11, ss. 3, 6(2), Sch. 1 Pt. 1 (with s. 5, Sch. 3)

SCHEDULE 12

Sections 24(3), 39(4), 49(2) and 53(2).

REPEALS

PART I

HOUSING

*Repeals coming into force on passing of Act*

Chapter	Short title	Extent of Repeal
1985 c. 71.	Housing (Consequential Provisions) Act 1985.	In Schedule 2, in paragraph 24(8)—  (a) in sub-paragraph (d), the words from “for ‘section 60’ to “1985’ and”;

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(b) in sub-paragraph (e),  
the words from “for the” to  
“Schedule’ and”;

(c) sub-paragraph (f).

*Repeals coming into force on appointed day*

<b>Chapter</b>	<b>Short title</b>	<b>Extent of repeal</b>
1975 c. 28.	Housing Rents and Subsidies (Scotland) Act 1975.	Section 5(6).
1977 c. 42.	Rent Act 1977.	In section 69(1), the words “(to be known as a certificate of fair rent)”.  In section 70(1), the word “and” before paragraph (b).  In Schedule 12, in paragraph 3, the words “unless the dwelling-house is subject to a regulated tenancy”.
1980 c. 51.	Housing Act 1980.	Section 56(3).  Section 140.
1980 c. 65.	Local Government, Planning and Land Act 1980.	Section 156(3).
1981 c. 64.	New Towns Act 1981.	Section 43(3) and (4).  Section 49(b) and (c).
1985 c. 51.	Local Government Act 1985.	In Schedule 13, in paragraph 14, sub-paragraph (d) and the word “and” preceding it.  In Schedule 14, paragraph 58(e).
1985 c. 68.	Housing Act 1985.	Section 30(2).  Section 46.  In section 127, the word “and” at the end of paragraph (a).  In section 452(2), the definition of “housing authority”.  Section 453(2).  In Schedule 4, in paragraph 7(1), the words from “a

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1985 c. 71.	Housing (Consequential Provisions) Act 1985.	housing co-operative” to “management functions”).  In Schedule 6, in paragraph 14(2), the words following paragraph (c).  In Schedule 2, paragraphs 27, 35(3), 44(3), and 45(2).
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## PART II

### OPENCAST COAL

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Chapter	Short title	Extent of repeal
6 & 7 Eliz. 2 c. 69.	Opencast Coal Act 1958.	Sections 1 and 2.  Section 9(2).  In section 18(2), the words “(apart from this Act)”.  In section 39(10), the words “First or”.  Section 46(2).  Section 48.  In section 51, in subsection (1), the definitions of “the authorised purposes” and “authorised operations”.  Section 53(2).  Schedule 1.  In Schedule 9, in paragraph 3(2), the words “under the First Schedule to this Act, or”.  Schedule 10.
1971 c. 78.	Town and Country Planning Act 1971.	Section 60(10)(a).  In section 216(3), in paragraph (a), the words “or the National Coal Board” and in paragraph (b), the words from “or” to “1958”.
1972 c. 52.	Town and Country Planning (Scotland) Act 1972.	Section 58(10)(a).  In section 205(3) and 205A(3), in paragraph (a) the

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		words “or the National Coal Board” and in paragraph (b) the words from “or” to “1958”.
1975 c. 56.	Coal Industry Act 1975.	Section 5. In Schedule 3, paragraphs 3 and 11. Schedule 4.
1981 c. 67.	Acquisition of Land Act 1981.	In Schedule 4, paragraph 11(5).
1986 c. 5.	Agricultural Holdings Act 1986.	In Schedule 14, paragraph 25.

### PART III

#### MISCELLANEOUS (ENGLAND AND WALES)

Chapter	Short title	Extent of repeal
62 & 63 Vict. c. 19.	Electric Lighting (Clauses) Act 1899.	In the Schedule, in section 10(b), the words “and the express consent of the local authority also”.
16 & 17 Geo. 5 c. 51.	Electricity (Supply) Act 1926.	In Schedule 6, the entry relating to section 21 of the Electricity (Supply) Act 1919.
8 & 9 Geo. 6 c. 43.	Requisitioned Land and War Works Act 1945.	Section 52.
10 & 11 Geo. 6 c. 51.	Town and Country Planning Act 1947.	In Schedule 8, the entry relating to section 21 of the Electricity (Supply) Act 1919.
10 & 11 Geo. 6 c. 54.	Electricity Act 1947.	In Part I of Schedule 4, the entry relating to section 21 of the Electricity (Supply) Act 1919.
11 & 12 Geo. 6 c. 17.	Requisitioned Land and War Works Act 1948.	In the Schedule, paragraph 10.
5 & 6 Eliz. 2 c. 48.	Electricity Act 1957.	In section 33(3), the words “and the next following”.
1968 c. 14.	Public Expenditure and Receipts Act 1968.	In Schedule 3, in paragraph 6, the entry relating to section 290(4) of the Local Government Act 1933.

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1971 c. 78.	Town and Country Planning Act 1971.	<p>In section 29A—</p> <p>(a) in subsection (2), the definition of “the Code of Practice for Access of the Disabled to Buildings”;</p> <p>(b) subsection (3).</p> <p>Section 29B(2) and (3).</p> <p>In section 32(2), in the proviso, the words “of sections 66 to 86”.</p> <p>In section 55(4), the words “under section 56 of this Act”.</p> <p>Sections 66 to 86.</p> <p>Section 88B(4).</p> <p>Section 105(1)(c).</p> <p>Section 110(1).</p> <p>In section 147(3), the words from “or in respect of” to the end.</p> <p>Section 151.</p> <p>Section 165(4).</p> <p>In section 169—</p> <p>(a) subsection (5);</p> <p>(b) in subsection (7), the words from “and no compensation” to the end.</p> <p>In section 180(4), the words from “and no account” to the end.</p> <p>Section 185.</p> <p>Section 191(2).</p> <p>In section 237(5), the words from “and no compensation” to the end.</p> <p>Sections 250 to 252.</p> <p>In section 260(1)(d), the words “grants in accordance with regulations made under section 250 of this Act or”.</p>
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In section 287—

(a) in subsection (4), the words “69, 73(6), 74(4), 75(8)”;

(b) in subsection (5)(b), the words “69, 73(6), 75(8) or” and the words from “or an order under section 74(4)” to the end;

(c) subsection (7);

(d) subsection (9).

In section 290(1)—

(a) in the definition of “building”, the words in parenthesis;

(b) the definition of “industrial development certificate”.

Schedules 12 and 13.

In Schedule 21—

(a) in Part I, the references to sections 250, 251(1) and 252;

(b) in Part II, the references to sections 79 to 81;

(c) in Part III, the references to sections 72 and 251(2) to (5);

(d) in Part V, the references to sections 72 and 73 to 86.

In Schedule 24, paragraphs 20A, 26 to 30 and 70.

1972 c. 42.

Town and Country Planning (Amendment) Act 1972.

Sections 5 and 6.

1972 c. 70.

Local Government Act 1972.

In section 182(1), the words from “(2A)” to the end.

Section 183(2).

In section 250(4), the words from “(including)” to “in the inquiry”.

In Schedule 16, paragraphs 1 to 3.



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1974 c. 7.	Local Government Act 1974.	In Schedule 6, paragraph 25(4).
1974 c. 32.	Town and Country Amenities Act 1974.	Section 3(1).  Section 5.
1976 c. 70.	Land Drainage Act 1976.	In section 96(5), the words from “including” to “in the inquiry”.
1977 c. 40.	Control of Office Development Act 1977.	The whole Act.
1980 c. 65.	Local Government, Planning and Land Act 1980.	Section 88.  In section 134— (a) in subsection (1), the words “Subject to subsection (2) below,”; (b) subsection (2).  In Schedule 14, paragraphs 6 to 8.  In Schedule 15, paragraphs 1 and 16.  In Part I of Schedule 29, in the entry relating to section 65, the word “waste”.
1981 c. 67.	Acquisition of Land Act 1981.	In Schedule 4, in paragraph 1, in the entry relating to the Local Government Act 1972, the words “section 125(4) and (7)”.
1982 c. 30.	Local Government (Miscellaneous Provisions) Act 1982.	In Schedule 6, in the Table in paragraph 7(b) the entries relating to ss. 15 and 15A of the Town and Country Planning Act 1971.
1982 c. 52.	Industrial Development Act 1982.	Section 15(1)(b).  In Part II of Schedule 2, paragraph 7(1).
1983 c. 47.	National Heritage Act 1983.	In Schedule 4, paragraph 18.  Schedule 5, paragraph 6.
1984 c. 27.	Road Traffic Regulation Act 1984.	In section 129(1)(d), the words from “(including” to “in the inquiry”.

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1985 c. 51. Local Government Act 1985. Section 3(2).  
In Schedule 2, paragraph 1(8).

## PART IV

### MISCELLANEOUS (SCOTLAND)

#### Commencement Information

**I12** Sch. 12 Pt. IV partly in force; Sch. 12 Pt. IV not in force at Royal Assent see s. 57(1)-(3); Sch. 12 Pt. IV in force for specified purposes at 1.6.1996 by S.I. 1996/1276, art. 2(b), Sch.

Chapter	Short title	Extent of repeal
1968 c. 14.	Public Expenditure and Receipts Act 1968.	In Schedule 3, in paragraph 6, the entry relating to section 355(8) of the Local Government (Scotland) Act 1947.
1972 c. 52.	Town and Country Planning (Scotland) Act 1972.	In section 29(2), in the proviso, the words “of sections 64 to 83”. In section 53(2), the word “only” and the words “(in this Act referred to as listed building consent)”. In section 53(4) the words “under section 54 of this Act.”. In section 63(1A), the words from “; and references” to “construed”. Sections 64 to 83. Section 85(8). In section 136(3) the words from “or in respect of” to the end. Section 140. Section 154(4). In section 158— (a) Subsection (5).

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(b) In subsection (7) the words from “and no compensation” to the end.

In section 169(4) the words from “and no account” to the end.

Section 174.

Section 180(2).

In section 226(5) the words from “and no compensation” to the end.

Section 231(2)(e).

In section 233(3), the words “(other than an order under section 203(1)(a) of this Act)”.

Sections 237 to 239.

In section 247(1)(d), the words from “in accordance” to “grants”.

In section 273—

(a) In subsection (4), the words “67, 71(6), 72(4), 73(8)”.

(b) In subsection (5) the words “67, 71(6), 73(8)”.

(c) Subsections (7) to (9).

In section 275(1)—

(a) In the definition of “building”, the words “, except in sections 71 to 83 of this Act,”.

(b) the definition of “industrial development certificate”.

In Schedule 19—

(a) in Part I, the reference to sections 237, 238(1) and 239;

(b) in Part II, the references to sections 77 to 79 and 83;

(c) in Part III, the reference to section 70.

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		In Schedule 22, paragraphs 22 to 25 and 60.
1974 c. 32.	Town and Country Amendment Act 1974.	Section 5.
1980 c. 65.	Local Government Planning and Land Act 1980.	In section 134(1) the words “Subject to subsection (2) below,”.
		In Part I of Schedule 30, in the entry relating to section 63, the word “waste”.
1982 c. 52.	Industrial Development Act 1982.	Section 15(1)(b).
		Paragraph 10 of Part II of Schedule 2.
1984 c. 27.	Road Traffic Regulation Act 1984.	In section 129(1)(d) the words from “(including” to “in the inquiry”.

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