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SCHEDULES

SCHEDULE 1

Sections 12 and 32.

DISCHARGE OF MORTGAGES ETC.: SUPPLEMENTARY PROVISIONS

PART I

DISCHARGE IN PURSUANCE OF PURCHASE NOTICES

Construction

1 In this Part of this Schedule—

“the consideration payable” means the consideration payable to [^{F1}the purchaser] for the disposal by him of the property referred to in [^{F2}section 12B(7)];

[^{F1}“the purchaser”] has the same meaning as in section 12, and accordingly includes any person to whom that section applies by virtue of [^{F3}section 16(4) or (5)]; and

“the nominated person” means the person or persons nominated as mentioned in [^{F4}section 12B(2)].

Textual Amendments

- F1** Words in Sch. 1 para. 1 substituted (1.10.1996) by 1996 c. 52, s. 92(1), Sch. 6 Pt. IV para. 11(1)(a); S.I. 1996/2212, art. 2(2) (with Sch.)
- F2** Words in definition of “consideration payable” in Sch. 1 para. 1 substituted (1.10.1996) by 1996 c. 52, s. 92(1), Sch. 6 Pt. IV para. 11(1)(b)(i); S.I. 1996/2212, art. 2(2) (with Sch.)
- F3** Words in definition of “the purchaser” in Sch. 1 para. 1 substituted (1.10.1996) by virtue of 1996 c. 52, s. 92(1), Sch. 6 Pt. IV para. 11(1)(b)(ii); S.I. 1996/2212, art. 2(2) (with Sch.)
- F4** Words in definition of “the nominated person” in Sch. 1 para. 1 substituted (1.10.1996) by 1996 c. 52, s. 92(1), Sch. 6 Pt. IV para. 11(1)(c); S.I. 1996/2212, art. 2(2) (with Sch.)

Duty of nominated person to redeem mortgages

- 2 (1) Where in accordance with [^{F5}section 12B(5)(a)] an instrument will operate to discharge any property from a charge to secure the payment of money, it shall be the duty of the nominated person to apply the consideration payable, in the first instance, in or towards the redemption of any such charge (and, if there are more than one, then according to their priorities).
- (2) Where sub-paragraph (1) applies to any charge or charges, then if (and only if) the consideration payable is applied by the nominated person in accordance with that sub-paragraph or paid into court by him in accordance with paragraph 4, the instrument in question shall operate as mentioned in sub-paragraph (1)

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notwithstanding that the consideration payable is insufficient to enable the charge or charges to be redeemed in its or their entirety.

- (3) Subject to sub-paragraph (4), sub-paragraph (1) shall not apply to a charge which is a debenture holders' charge, that is to say, a charge (whether a floating charge or not) in favour of the holders of a series of debentures issued by a company or other body of persons, or in favour of trustees for such debenture holders; and any such charge shall be disregarded in determining priorities for the purposes of sub-paragraph (1).
- (4) Sub-paragraph (3) above shall not have effect in relation to a charge in favour of trustees for debenture holders which at the date of the instrument by virtue of which the property is disposed of by [^{F6}the purchaser] is (as regards that property) a specific and not a floating charge.

Textual Amendments

- F5** Words in Sch. 1 para. 2(1) substituted (1.10.1996) by 1996 c. 52, s. 92(1), Sch. 6 Pt. IV para. 11(2)(a); S.I. 1996/2212, art. 2(2) (with Sch.)
- F6** Words in Sch. 1 para. 1(4) substituted (1.10.1996) by 1996 c. 52, s. 92(1), Sch. 6 Pt. IV para. 11(2)(b); S.I. 1996/2212, art. 2(2) (with Sch.)

Determination of amounts due in respect of mortgages

- 3 (1) For the purpose of determining the amount payable in respect of any charge under paragraph 2(1), a person entitled to the benefit of a charge to which that provision applies shall not be permitted to exercise any right to consolidate that charge with a separate charge on other property.
- (2) For the purpose of discharging any property from a charge to which paragraph 2(1) applies, a person may be required to accept three months or any longer notice of the intention to pay the whole or part of the principal secured by the charge, together with interest to the date of payment, notwithstanding that the terms of the security make other provision or no provision as to the time and manner of payment; but he shall be entitled, if he so requires, to receive such additional payment as is reasonable in the circumstances in respect of the costs of re-investment or other incidental costs and expenses and in respect of any reduction in the rate of interest obtainable on re-investment.

Payments into court

- 4 (1) Where under [^{F7}section 12B(5)(a)] any property is to be discharged from a charge and, in accordance with paragraph 2(1), a person is or may be entitled in respect of the charge to receive the whole or part of the consideration payable, then if—
- (a) for any reason difficulty arises in ascertaining how much is payable in respect of the charge, or
- (b) for any reason mentioned in sub-paragraph (2) below difficulty arises in making a payment in respect of the charge,
- the nominated person may pay into court on account of the consideration payable the amount, if known, of the payment to be made in respect of the charge or, if that amount is not known, the whole of that consideration or such lesser amount as the nominated person thinks right in order to provide for that payment.

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- (2) Payment may be made into court in accordance with sub-paragraph (1)(b) where the difficulty arises for any of the following reasons, namely—
- (a) because a person who is or may be entitled to receive payment cannot be found or ascertained;
 - (b) because any such person refuses or fails to make out a title, or to accept payment and give a proper discharge, or to take any steps reasonably required of him to enable the sum payable to be ascertained and paid; or
 - (c) because a tender of the sum payable cannot, by reason of complications in the title to it or the want of two or more trustees or for other reasons, be effected, or not without incurring or involving unreasonable cost or delay.
- (3) Without prejudice to sub-paragraph (1)(a), the whole or part of the consideration payable shall be paid into court by the nominated person if, before execution of the instrument referred to in paragraph 2(1), notice is given to him—
- (a) that [^{F8}the purchaser] or a person entitled to the benefit of a charge on the property in question requires him to do so for the purpose of protecting the rights of persons so entitled, or for reasons related to the bankruptcy or winding up of [^{F8}the purchaser], or
 - (b) that steps have been taken to enforce any charge on [^{F8}the purchaser's] interest in that property by the bringing of proceedings in any court, or by the appointment of a receiver or otherwise;

and where payment into court is to be made by reason only of a notice under this sub-paragraph, and the notice is given with reference to proceedings in a court specified in the notice other than a county court, payment shall be made into the court so specified.

Textual Amendments

- F7** Words in Sch. 1 para. 4(1) substituted (1.10.1996) by 1996 c. 52, s. 92(1), Sch. 6 Pt. IV para. 11(2)(a); S.I. 1996/2212, art. 2(2) (with Sch.)
- F8** Words in Sch. 1 para. 4(3) substituted (1.10.1996) by 1996 c. 52, s. 92(1), Sch. 6 Pt. IV para. 11(2)(b); S.I. 1996/2212, art. 2(2) (with Sch.)

Savings

- 5 (1) Where any property is discharged by [^{F9}section 12B(5)(a)] from a charge (without the obligations secured by the charge being satisfied by the receipt of the whole or part of the consideration payable), the discharge of that property from the charge shall not prejudice any right or remedy for the enforcement of those obligations against other property comprised in the same or any other security, nor prejudice any personal liability as principal or otherwise of [^{F10}the purchaser] or any other person.
- (2) Nothing in this Schedule shall be construed as preventing a person from joining in the instrument referred to in paragraph 2(1) for the purpose of discharging the property in question from any charge without payment or for a lesser payment than that to which he would otherwise be entitled; and, if he does so, the persons to whom the consideration payable ought to be paid shall be determined accordingly.

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Textual Amendments

- F9** Words in Sch. 1 para. 5(1) substituted (1.10.1996) by 1996 c. 52, s. 92(1), Sch. 6 Pt. IV para. 11(2)(a); S.I. 1996/2212, art. 2(2) (with Sch.)
- F10** Words in Sch. 1 para. 5(1) substituted (1.10.1996) by 1996 c. 52, s. 92(1), Sch. 6 Pt. IV para. 11(2)(b); S.I. 1996/2212, art. 2(2) (with Sch.)

PART II

DISCHARGE IN PURSUANCE OF ACQUISITION ORDERS

Construction

- 6 In this Part of this Schedule—
- “the consideration payable” means the consideration payable for the acquisition of the landlord’s interest referred to in section 32(1); and
- “the nominated person” means the person or persons nominated for the purposes of Part III by the persons who applied for the acquisition order in question.

Duty of nominated person to redeem mortgages

- 7 (1) Where in accordance with section 32(1) an instrument will operate to discharge any premises from a charge to secure the payment of money, it shall be the duty of the nominated person to apply the consideration payable, in the first instance, in or towards the redemption of any such charge (and, if there are more than one, then according to their priorities).
- (2) Where sub-paragraph (1) applies to any charge or charges, then if (and only if) the consideration payable is applied by the nominated person in accordance with that sub-paragraph or paid into court by him in accordance with paragraph 9, the instrument in question shall operate as mentioned in sub-paragraph (1) notwithstanding that the consideration payable is insufficient to enable the charge or charges to be redeemed in its or their entirety.
- (3) Subject to sub-paragraph (4), sub-paragraph (1) shall not apply to a charge which is a debenture holders’ charge within the meaning of paragraph 2(3) in Part I of this Schedule; and any such charge shall be disregarded in determining priorities for the purposes of sub-paragraph (1).
- (4) Sub-paragraph (3) above shall not have effect in relation to a charge in favour of trustees for debenture holders which at the date of the instrument by virtue of which the landlord’s interest in the premises in question is acquired is (as regards those premises) a specific and not a floating charge.

Determination of amounts due in respect of mortgages

- 8 (1) For the purpose of determining the amount payable in respect of any charge under paragraph 7(1), a person entitled to the benefit of a charge to which that provision applies shall not be permitted to exercise any right to consolidate that charge with a separate charge on other property.

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- (2) For the purpose of discharging any premises from a charge to which paragraph 7(1) applies, a person may be required to accept three months or any longer notice of the intention to pay the whole or part of the principal secured by the charge, together with interest to the date of payment, notwithstanding that the terms of the security make other provision or no provision as to the time and manner of payment; but he shall be entitled, if he so requires, to receive such additional payment as is reasonable in the circumstances in respect of the costs of re-investment or other incidental costs and expenses and in respect of any reduction in the rate of interest obtainable on re-investment.

Payments into court

- 9 (1) Where under section 32 any premises are to be discharged from a charge and, in accordance with paragraph 7(1), a person is or may be entitled in respect of the charge to receive the whole or part of the consideration payable, then if—
- (a) for any reason difficulty arises in ascertaining how much is payable in respect of the charge, or
 - (b) for any reason mentioned in sub-paragraph (2) below difficulty arises in making a payment in respect of the charge,
- the nominated person may pay into court on account of the consideration payable the amount, if known, of the payment to be made in respect of the charge or, if that amount is not known, the whole of that consideration or such lesser amount as the nominated person thinks right in order to provide for that payment.
- (2) Payment may be made into court in accordance with sub-paragraph (1)(b) where the difficulty arises for any of the following reasons, namely—
- (a) because a person who is or may be entitled to receive payment cannot be found or ascertained;
 - (b) because any such person refuses or fails to make out a title, or to accept payment and give a proper discharge, or to take any steps reasonably required of him to enable the sum payable to be ascertained and paid; or
 - (c) because a tender of the sum payable cannot, by reason of complications in the title to it or the want of two or more trustees or for other reasons, be effected, or not without incurring or involving unreasonable cost or delay.
- (3) Without prejudice to sub-paragraph (1)(a), the whole or part of the consideration payable shall be paid into court by the nominated person if, before execution of the instrument referred to in paragraph 7(1), notice is given to him—
- (a) that the landlord or a person entitled to the benefit of a charge on the premises in question requires him to do so for the purpose of protecting the rights of persons so entitled, or for reasons related to the bankruptcy or winding up of the landlord, or
 - (b) that steps have been taken to enforce any charge on the landlord's interest in those premises by the bringing of proceedings in any court, or by the appointment of a receiver or otherwise;
- and where payment into court is to be made by reason only of a notice under this sub-paragraph, and the notice is given with reference to proceedings in a court specified in the notice other than a county court, payment shall be made into the court so specified.

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Savings

- 10 (1) Where any premises are discharged by section 32 from a charge (without the obligations secured by the charge being satisfied by the receipt of the whole or part of the consideration payable), the discharge of those premises from the charge shall not prejudice any right or remedy for the enforcement of those obligations against other property comprised in the same or any other security, nor prejudice any personal liability as principal or otherwise of the landlord or any other person.
- (2) Nothing in this Schedule shall be construed as preventing a person from joining in the instrument referred to in paragraph 7(1) for the purpose of discharging the premises in question from any charge without payment or for a lesser payment than that to which he would otherwise be entitled; and, if he does so, the persons to whom the consideration payable ought to be paid shall be determined accordingly.

SCHEDULE 2

Section 41.

AMENDMENTS RELATING TO SERVICE CHARGES

Meaning of “service charge” and “relevant costs”

- 1 In section 18(1) of the 1985 Act, for “flat” substitute “dwelling”.

Limitation of service charges: reasonableness

- 2 In section 19 of the 1985 Act—
- (a) in subsection (3), for “flat” substitute “dwelling”; and
- [^{F11}(b) after subsection (4) add—

“(5) If a person takes any proceedings in the High Court in pursuance of any of the provisions of this Act relating to service charges and he could have taken those proceedings in the county court, he shall not be entitled to recover any costs.”]

Textual Amendments

- F11** Sch. 2 para. 2(b) repealed (*prosp.*) by Courts and Legal Services Act 1990 (c. 41, SIF 76:1), ss. 124(3), 125(7), **Sch. 20**

Limitation of service charges: estimates and consultation

- 3 The following section shall be substituted for section 20 of the 1985 Act—
- “**20** (1) Where relevant costs incurred on the carrying out of any qualifying works exceed the limit specified in subsection (3), the excess shall not be taken into account in determining the amount of a service charge unless the relevant requirements have been either—
- (a) complied with, or
- (b) dispensed with by the court in accordance with subsection (9);
- and the amount payable shall be limited accordingly.

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- (2) In subsection (1) “qualifying works”, in relation to a service charge, means works (whether on a building or on any other premises) to the costs of which the tenant by whom the service charge is payable may be required under the terms of his lease to contribute by the payment of such a charge.
- (3) The limit is whichever is the greater of—
 - (a) £25, or such other amount as may be prescribed by order of the Secretary of State, multiplied by the number of dwellings let to the tenants concerned; or
 - (b) £500, or such other amount as may be so prescribed.
- (4) The relevant requirements in relation to such of the tenants concerned as are not represented by a recognised tenants’ association are—
 - (a) At least two estimates for the works shall be obtained, one of them from a person wholly unconnected with the landlord.
 - (b) A notice accompanied by a copy of the estimates shall be given to each of those tenants or shall be displayed in one or more places where it is likely to come to the notice of all those tenants.
 - (c) The notice shall describe the works to be carried out and invite observations on them and on the estimates and shall state the name and the address in the United Kingdom of the person to whom the observations may be sent and the date by which they are to be received.
 - (d) The date stated in the notice shall not be earlier than one month after the date on which the notice is given or displayed as required by paragraph (b).
 - (e) The landlord shall have regard to any observations received in pursuance of the notice; and unless the works are urgently required they shall not be begun earlier than the date specified in the notice.
- (5) The relevant requirements in relation to such of the tenants concerned as are represented by a recognised tenants’ association are—
 - (a) The landlord shall give to the secretary of the association a notice containing a detailed specification of the works in question and specifying a reasonable period within which the association may propose to the landlord the names of one or more persons from whom estimates for the works should in its view be obtained by the landlord.
 - (b) At least two estimates for the works shall be obtained, one of them from a person wholly unconnected with the landlord.
 - (c) A copy of each of the estimates shall be given to the secretary of the association.
 - (d) A notice shall be given to each of the tenants concerned represented by the association, which shall—
 - (i) describe briefly the works to be carried out,
 - (ii) summarise the estimates,
 - (iii) inform the tenant that he has a right to inspect and take copies of a detailed specification of the works to be carried out and of the estimates,
 - (iv) invite observations on those works and on the estimates, and

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- (v) specify the name and the address in the United Kingdom of the person to whom the observations may be sent and the date by which they are to be received.
- (e) The date stated in the notice shall not be earlier than one month after the date on which the notice is given as required by paragraph (d).
- (f) If any tenant to whom the notice is given so requests, the landlord shall afford him reasonable facilities for inspecting a detailed specification of the works to be carried out and the estimates, free of charge, and for taking copies of them on payment of such reasonable charge as the landlord may determine.
- (g) The landlord shall have regard to any observations received in pursuance of the notice and, unless the works are urgently required, they shall not be begun earlier than the date specified in the notice.
- (6) Paragraphs (d)(ii) and (iii) and (f) of subsection (5) shall not apply to any estimate of which a copy is enclosed with the notice given in pursuance of paragraph (d).
- (7) The requirement imposed on the landlord by subsection (5)(f) to make any facilities available to a person free of charge shall not be construed as precluding the landlord from treating as part of his costs of management any costs incurred by him in connection with making those facilities so available.
- (8) In this section “the tenants concerned” means all the landlord’s tenants who may be required under the terms of their leases to contribute to the costs of the works in question by the payment of service charges.
- (9) In proceedings relating to a service charge the court may, if satisfied that the landlord acted reasonably, dispense with all or any of the relevant requirements.
- (10) 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.”

Additional limitations on service charges

4 The following sections shall be inserted in the 1985 Act after the section 20A inserted by paragraph 9 of Schedule 5 to the ^{M1}Housing and Planning Act 1986—

“20B Limitation of service charges: time limit on making demands.

- (1) If any of the relevant costs taken into account in determining the amount of any service charge were incurred more than 18 months before a demand for payment of the service charge is served on the tenant, then (subject to subsection (2)), the tenant shall not be liable to pay so much of the service charge as reflects the costs so incurred.
- (2) Subsection (1) shall not apply if, within the period of 18 months beginning with the date when the relevant costs in question were incurred, the tenant

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was notified in writing that those costs had been incurred and that he would subsequently be required under the terms of his lease to contribute to them by the payment of a service charge.

20C Limitation of service charges: costs of court proceedings.

- (1) A tenant may make an application to the appropriate court for an order that all or any of the costs incurred, or to be incurred, by the landlord in connection with any proceedings are not to be regarded as relevant costs to be taken into account in determining the amount of any service charge payable by the tenant or any other person or persons specified in the application; and the court may make such order on the application as it considers just and equitable in the circumstances.
- (2) In subsection (1) “the appropriate court” means—
 - (a) if the application is made in the course of the proceedings in question, the court before which the proceedings are taking place; and
 - (b) if the application is made after those proceedings are concluded, a county court.”

Marginal Citations

M1 1986 c. 63.

Request for summary of relevant costs

- 5 (1) Section 21 of the 1985 Act shall be amended as follows.
- (2) In subsection (2), for the words from “there is” to “and the tenant” substitute “ the tenant is represented by a recognised tenants’ association and he ”.
 - (3) In subsection (5), for the words from “how they are or will be” onwards substitute “how they have been or will be reflected in demands for service charges and, in addition, shall summarise each of the following items, namely—
 - (a) any of the costs in respect of which no demand for payment was received by the landlord within the period referred to in subsection (1)(a) or (b),
 - (b) any of the costs in respect of which—
 - (i) a demand for payment was so received, but
 - (ii) no payment was made by the landlord within that period, and
 - (c) any of the costs in respect of which—
 - (i) a demand for payment was so received, and
 - (ii) payment was made by the landlord within that period,and specify the aggregate of any amounts received by the landlord down to the end of that period on account of service charges in respect of relevant dwellings and still standing to the credit of the tenants of those dwellings at the end of that period.
 - (5A) In subsection (5) “relevant dwelling” means a dwelling whose tenant is either—

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- (a) the person by or with the consent of whom the request was made, or
- (b) a person whose obligations under the terms of his lease as regards contributing to relevant costs relate to the same costs as the corresponding obligations of the person mentioned in paragraph (a) above relate to.”

(4) In subsection (6)—

- (a) for the words from the beginning to “another building” substitute “ If the service charges in relation to which the costs are relevant costs as mentioned in subsection (1) are payable by the tenants of more than four dwellings ”; and
- (b) for “requirement” substitute “ requirements ”.

Request to inspect supporting accounts etc.

6 In section 22 of the 1985 Act, after subsection (4) add—

“(5) The landlord shall—

- (a) where such facilities are for the inspection of any documents, make them so available free of charge;
- (b) where such facilities are for the taking of copies or extracts, be entitled to make them so available on payment of such reasonable charge as he may determine.

(6) The requirement imposed on the landlord by subsection (5)(a) to make any facilities available to a person free of charge shall not be construed as precluding the landlord from treating as part of his costs of management any costs incurred by him in connection with making those facilities so available.”

Effect of assignment on request

7 In section 24 of the 1985 Act, for “flat” substitute “ dwelling ”.

Exception where rent is registered and not entered as variable

8 In section 27 of the 1985 Act, for “flat” substitute “ dwelling ”.

Meaning of “qualified accountant”

9 (1) Section 28 of the 1985 Act shall be amended as follows.

(2) In subsection (4)—

- (a) in paragraph (b), for “or employee” substitute “ , employee or partner ”; and
- (b) after paragraph (c) add—
 - “(d) an agent of the landlord who is a managing agent for any premises to which any of the costs covered by the summary in question relate;
 - (e) an employee or partner of any such agent.”

(3) After subsection (5) insert—

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“(5A) For the purposes of subsection (4)(d) a person is a managing agent for any premises to which any costs relate if he has been appointed to discharge any of the landlord’s obligations relating to the management by him of the premises and owed to the tenants who may be required under the terms of their leases to contribute to those costs by the payment of service charges.”

Meaning of “recognised tenants’ association”

- 10 (1) Section 29 of the 1985 Act shall be amended as follows.
- (2) In subsection (1), for “tenants of flats in a building” substitute “ qualifying tenants (whether with or without other tenants) ”.
- (3) In subsection (4), for “the building is situated” substitute “ the dwellings let to the qualifying tenants are situated, and for the purposes of this section a number of tenants are qualifying tenants if each of them may be required under the terms of his lease to contribute to the same costs by the payment of a service charge. ”
- (4) For subsection (5) substitute—
- “(5) The Secretary of State may by regulations specify—
- (a) the procedure which is to be followed in connection with an application for, or for the cancellation of, a certificate under subsection (1)(b);
 - (b) the matters to which regard is to be had in giving or cancelling such a certificate;
 - (c) the duration of such a certificate; and
 - (d) any circumstances in which a certificate is not to be given under subsection (1)(b).”

Definitions

- 11 In section 30—
- (a) omit the definition of “flat”; and
 - (b) in the definition of “tenant”, for “flat” substitute “ dwelling ”.

SCHEDULE 3

Section 43(2).

RIGHTS OF TENANTS WITH RESPECT TO INSURANCE

Construction

- 1 In this Schedule—
- “landlord”, in relation to a tenant by whom a service charge is payable which includes an amount payable directly or indirectly for insurance, includes any person who has a right to enforce payment of that service charge;
- “relevant policy”, in relation to a dwelling, means any policy of insurance under which the dwelling is insured (being, in the case of a flat, a policy covering the building containing it); and

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“tenant” includes a statutory tenant.

Request for summary of insurance cover

- 2 (1) Where a service charge is payable by the tenant of a dwelling which consists of or includes an amount payable directly or indirectly for insurance, the tenant may require the landlord in writing to supply him with a written summary of the insurance for the time being effected in relation to the dwelling.
- (2) If the tenant is represented by a recognised tenants’ association and he consents, the request may be made by the secretary of the association instead of by the tenant and may then be for the supply of the summary to the secretary.
- (3) A request is duly served on the landlord if it is served on—
- (a) an agent of the landlord named as such in the rent book or similar document, or
 - (b) the person who receives the rent on behalf of the landlord;
- and a person on whom a request is so served shall forward it as soon as may be to the landlord.
- (4) The landlord shall, within one month of the request, comply with it by supplying to the tenant or the secretary of the recognised tenants’ association (as the case may require) such a summary as is mentioned in sub-paragraph (1), which shall include—
- (a) the insured amount or amounts under any relevant policy, and
 - (b) the name of the insurer under any such policy, and
 - (c) the risks in respect of which the dwelling or (as the case may be) the building containing it is insured under any such policy.
- (5) In sub-paragraph (4)(a) “the insured amount or amounts”, in relation to a relevant policy, means—
- (a) in the case of a dwelling other than a flat, the amount for which the dwelling is insured under the policy; and
 - (b) in the case of a flat, the amount for which the building containing it is insured under the policy and, if specified in the policy, the amount for which the flat is insured under it.
- (6) The landlord shall be taken to have complied with the request if, within the period mentioned in sub-paragraph (4), he instead supplies to the tenant or the secretary (as the case may require) a copy of every relevant policy.
- (7) In a case where two or more buildings are insured under any relevant policy, the summary or copy supplied under sub-paragraph (4) or (6) so far as relating to that policy need only be of such parts of the policy as relate—
- (a) to the dwelling, and
 - (b) if the dwelling is a flat, to the building containing it.

Request to inspect insurance policy etc.

- 3 (1) This paragraph applies where a tenant, or the secretary of a recognised tenants’ association, has obtained either—
- (a) such a summary as is referred to in paragraph 2(1), or
 - (b) a copy of any relevant policy or of any such parts of any relevant policy as relate to the premises referred to in paragraph 2(7)(a) or (b),

Status: Point in time view as at 01/04/1997.

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whether in pursuance of paragraph 2 or otherwise.

- (2) The tenant, or the secretary with the consent of the tenant, may within six months of obtaining any such summary or copy as is mentioned in sub-paragraph (1)(a) or (b) require the landlord in writing to afford him reasonable facilities—
 - (a) for inspecting any relevant policy,
 - (b) for inspecting any accounts, receipts or other documents which provide evidence of payment of any premiums due under any such policy in respect of the period of insurance which is current when the request is made and the period of insurance immediately preceding that period, and
 - (c) for taking copies of or extracts from any of the documents referred to in paragraphs (a) and (b).
- (3) Any reference in this paragraph to a relevant policy includes a reference to a policy of insurance under which the dwelling in question was insured for the period of insurance immediately preceding that current when the request is made under this paragraph (being, in the case of a flat, a policy covering the building containing it).
- (4) Subsections (3) to (6) of section 22 shall have effect in relation to a request made under this paragraph as they have effect in relation to a request made under that section.

Request relating to insurance effected by superior landlord

- 4 (1) If a request is made under paragraph 2 in a case where a superior landlord has effected, in whole or in part, the insurance of the dwelling in question and the landlord to whom the request is made is not in possession of the relevant information—
 - (a) he shall in turn make a written request for the relevant information to the person who is his landlord (and so on, if that person is not himself the superior landlord),
 - (b) the superior landlord shall comply with that request within a reasonable time, and
 - (c) the immediate landlord shall then comply with the tenant's or secretary's request in the manner provided by sub-paragraphs (4) to (7) of paragraph 2 within the time allowed by that paragraph or such further time, if any, as is reasonable in the circumstances.
- (2) If, in a case where a superior landlord has effected, in whole or in part, the insurance of the dwelling in question, a request under paragraph 3 relates to any policy of insurance effected by the superior landlord—
 - (a) the landlord to whom the request is made shall forthwith inform the tenant or secretary of that fact and of the name and address of the superior landlord, and
 - (b) that paragraph shall then apply to the superior landlord in relation to that policy as it applies to the immediate landlord.

Effect of assignment on request

- 5 The assignment of a tenancy does not affect the validity of a request made under paragraph 2, 3 or 4 before the assignment; but a person is not obliged to provide a summary or make facilities available more than once for the same dwelling and for the same period.

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Failure to comply with paragraph 2, 3 or 4 an offence

- 6 (1) It is a summary offence for a person to fail, without reasonable excuse, to perform a duty imposed on him by or by virtue of paragraph 2, 3 or 4.
- (2) A person committing such an offence is liable on conviction to a fine not exceeding level 4 on the standard scale.

Tenant's right to notify insurers of possible claim

- 7 (1) This paragraph applies to any dwelling in respect of which the tenant pays to the landlord a service charge consisting of or including an amount payable directly or indirectly for insurance.
- (2) Where—
- (a) it appears to the tenant of any such dwelling that damage has been caused—
- (i) to the dwelling, or
- (ii) if the dwelling is a flat, to the dwelling or to any other part of the building containing it,
- in respect of which a claim could be made under the terms of a policy of insurance, and
- (b) it is a term of that policy that the person insured under the policy should give notice of any claim under it to the insurer within a specified period,
- the tenant may, within that specified period, serve on the insurer a notice in writing stating that it appears to him that damage has been caused as mentioned in paragraph (a) and describing briefly the nature of the damage.
- (3) Where—
- (a) any such notice is served on an insurer by a tenant in relation to any such damage, and
- (b) the specified period referred to in sub-paragraph (2)(b) would expire earlier than the period of six months beginning with the date on which the notice is served,
- the policy in question shall have effect as regards any claim subsequently made in respect of that damage by the person insured under the policy as if for the specified period there were substituted that period of six months.
- (4) Where the tenancy of a dwelling to which this paragraph applies is held by joint tenants, a single notice under this paragraph may be given by any one or more of those tenants.
- (5) The Secretary of State may by regulations prescribe the form of notices under this paragraph and the particulars which such notices must contain.
- (6) Any such regulations—
- (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.

Right to challenge landlord's choice of insurers

- 8 (1) This paragraph applies to a tenancy of a dwelling which requires the tenant to insure the dwelling with an insurer nominated by the landlord.

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- (2) Where, on an application made by the tenant under any such tenancy, the court is satisfied—
- (a) that the insurance which is available from the nominated insurer for insuring the tenant’s dwelling is unsatisfactory in any respect, or
 - (b) that the premiums payable in respect of any such insurance are excessive,
- the court may make either an order requiring the landlord to nominate such other insurer as is specified in the order or an order requiring him to nominate another insurer who satisfies such requirements in relation to the insurance of the dwelling as are specified in the order.
- (3) A county court shall have jurisdiction to hear and determine any application under this paragraph.

Exception for tenants of certain public authorities

- 9 (1) Paragraphs 2 to 8 do not apply to a tenant of—
- a local authority,
 - a new town corporation, or
 - the Development Board for Rural Wales,
- unless the tenancy is a long tenancy, in which case paragraphs 2 to 5 and 7 and 8 apply but paragraph 6 does not.
- (2) Subsections (2) and (3) of section 26 shall apply for the purposes of sub-paragraph (1) as they apply for the purposes of subsection (1) of that section.

SCHEDULE 4

Section 61(1).

CONSEQUENTIAL AMENDMENTS

Land Registration Act 1925 (c.21)

- 1 In section 49(1) (rules to provide for notices of other rights, interests and claims), at the end add—
- “(h) acquisition orders (within the meaning of Part III of the Landlord and Tenant Act 1987) which in the case of unregistered land may be protected by registration under the Land Charges Act 1972 and which, notwithstanding section 59 of this Act, it may be deemed expedient to protect by notice instead of by caution.”
- 2 In section 64 (certificates to be produced and noted on dealings), at the end add—
- “(6) Subsection (1) above shall also not require the production of the land certificate when a person applies for—
 - (a) the registration of a notice of any variation of a lease effected by or in pursuance of an order under section 38 of the Landlord and Tenant Act 1987 (orders by the court varying leases), including any variation as modified by an order under section 39(4) of that Act (effect of orders varying leases: applications by third parties), or
 - (b) the cancellation of any such notice where a variation is cancelled or modified by an order under section 39(4) of that Act.”

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Local Government Act 1985 (c.51)

- 3 In Schedule 13 (provisions with respect to residuary bodies)—
 - (a) in paragraph 24—
 - (i) omit “and” in the second place where it occurs, and
 - (ii) at the end add “, and paragraph 9(1) of the Schedule.”; and
 - (b) at the end add—
 - “26 A residuary body shall be included among the bodies specified in section 58(1) of the Landlord and Tenant Act 1987.”

Housing Act 1985 (c.68)

- 4 In section 45 (disposals in relation to which ss.46 to 51 apply, etc.)—
 - (a) in subsection (1), for paragraphs (a) to (c) substitute—
 - “(a) the freehold of a house has been conveyed by a public sector authority; and
 - (b) the conveyance enabled the vendor to recover from the purchaser a service charge.”; and
 - (b) in subsection (2), omit the words from “(a) the” to “; and (b)”.
- 5 Omit section 49 (information held by superior landlord).
- 6 In section 50(1) (offences), omit “or 49”.

7 F12

Textual Amendments
 F12 Sch. 4 para. 7 repealed by Housing Act 1988 (c. 50, SIF 61, 75:1), s. 140(2), Sch. 18

SCHEDULE 5

Section 61(2).

REPEALS

Chapter	Short title	Extent of repeal
1985 c.51.	Local Government Act 1985.	In paragraph 24 of Schedule 13, the word “and” in the second place where it occurs.
1985 c.68.	Housing Act 1985.	In section 45(2), the words from “(a) the” to “; and (b)”. Section 49. In section 50(1), the words “or 49”.
1985 c.70.	Landlord and Tenant Act 1985.	In section 30, the definition of “flat”.

Status:

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Changes to legislation:

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