

Status: Point in time view as at 01/07/2013.

Changes to legislation: Leasehold Reform, Housing and Urban Development Act 1993, SCHEDULE 2 is up to date with all changes known to be in force on or before 23 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)

SCHEDULES

SCHEDULE 2

Sections 9 and 40.

SPECIAL CATEGORIES OF LANDLORDS

Commencement Information

II Sch. 2 wholly in force at 1.11.1993 see s. 188(2) and S.I. 1993/2134, art. 5

Interpretation

1 (1) In this Schedule—

“Chapter I landlord” means a person who is, in relation to a claim made under Chapter I, [^{F1}a] relevant landlord within the meaning of that Chapter;

“Chapter II landlord” means a person who is, in relation to a claim made under Chapter II, the landlord within the meaning of that Chapter or any of the other landlords (as defined by section 40(4));

“debenture holders’ charge” means 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;

“mortgage” includes a charge or lien, and related expressions shall be construed accordingly;

“the relevant notice” means—

(a) in relation to a Chapter I landlord, the notice given under section 13, and

(b) in relation to a Chapter II landlord, the notice given under section 42.

(2) In paragraphs 5 to 8 any reference to a premium payable on the grant of a lease includes a reference to any other amount payable by virtue of Schedule 13 in connection with its grant.

Textual Amendments

F1 Word "a" in Sch. 2 para. 1(1) substituted (1.10.1996) for words by 1996 c. 52, s. 107, Sch. 10 para.16; S.I. 1996/2212, art. 2(2) (with savings in art. 2(2), Sch. para. 4)

Mortgagee in possession of landlord’s interest

2 (1) Where—

- (a) the interest of a Chapter I or Chapter II landlord is subject to a mortgage, and
- (b) the mortgagee is in possession,

all such proceedings arising out of the relevant notice as would apart from this subparagraph be taken by or in relation to that landlord (“the mortgagor”) shall, as regards his interest, be conducted by and through the mortgagee as if he were that

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landlord; but this sub-paragraph shall not, in its application to a Chapter I landlord, affect the operation in relation to the mortgagee of section 35 or Schedule 8.

(2) Where sub-paragraph (1) above applies to a Chapter I landlord, then (without prejudice to the generality of that sub-paragraph) any application under section 23(1) that would otherwise be made by the mortgagor (whether alone or together with any other person or persons) shall be made by the mortgagee as if he were the mortgagor.

(3) Where—

- (a) the interest of a Chapter I landlord is subject to a mortgage, and
- (b) a receiver appointed by the mortgagee or by order of any court is in receipt of the rents and profits,

the person referred to in paragraph (a) shall not make any application under section 23(1) without the consent of the mortgagee, and the mortgagee may by notice given to that person require that, as regards his interest, this paragraph shall apply, either generally or so far as it relates to section 23, as if the mortgagee were a mortgagee in possession.

(4) Where—

- (a) the interest of a Chapter I or Chapter II landlord is subject to a mortgage, and
- (b) the mortgagee is in possession or a receiver appointed by the mortgagee or by order of any court is in receipt of the rents and profits,

the relevant notice or a copy of it shall be regarded as duly given to that landlord if it is given to the mortgagee or to any such receiver; but whichever of the landlord, the mortgagee and any such receiver are not the recipient of the notice shall be given a copy of it by the recipient.

(5) Sub-paragraph (4) has effect in relation to a debenture holders' charge as if any reference to the mortgagee were a reference to the trustees for the debenture holders; but, where the relevant notice is given to a Chapter I or Chapter II landlord whose interest is subject to any such charge and there is no trustee for the debenture holders, the landlord shall forthwith send it or a copy of it to any receiver appointed by virtue of the charge.

(6) Where—

- (a) a Chapter I or Chapter II landlord is given the relevant notice or a copy of it, and
- (b) his interest is subject to a mortgage to secure the payment of money,

then (subject to sub-paragraph (7)), the landlord shall forthwith inform the mortgagee (unless the notice was given to him or a receiver appointed by virtue of the mortgage) that the notice has been given, and shall give him such further information as may from time to time be reasonably required from the landlord by the mortgagee.

(7) Sub-paragraph (6) does not apply to a debenture holders' charge.

Landlord's interest vested in custodian trustee

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Where the interest of a Chapter I or Chapter II landlord is vested in a person as custodian trustee, then for the purposes of Chapter I or (as the case may be) Chapter II the interest shall be deemed to be vested in the managing trustees or committee of management as owners of that interest, except as regards the execution of any instrument disposing of or otherwise affecting that interest.

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Landlord under a disability

- [^{F2}4 (1) This paragraph applies where a Chapter I or Chapter II landlord lacks capacity (within the meaning of the Mental Capacity Act 2005) to exercise his functions as a landlord.
- (2) For the purposes of the Chapter concerned, the landlord's place is to be taken—
- (a) by a donee of an enduring power of attorney or lasting power of attorney (within the meaning of the 2005 Act), or a deputy appointed for him by the Court of Protection, with power to exercise those functions, or
 - (b) if no deputy or donee has that power, by a person authorised in that respect by that court.]

Textual Amendments

- F2** Sch. 2 para. 4 substituted (1.10.2007) by Mental Capacity Act 2005 (c. 9), s. 68(1), **Sch. 6 para. 39(1)** (with ss. 27-29, 62, Sch. 6 para. 39(2)); S.I. 2007/1897, art. 2(1)(d)

Landlord's interest held [^{F3}in trust]

Textual Amendments

- F3** Words in the heading immediately preceding paragraph 5 of Sch. 2 substituted (1.1.1997) by 1996 c. 47, s. 25(1), **Sch. 3 para. 27(2)(a)** (with ss. 24(2), 25(4)); S.I. 1996/2974, **art.2**

- 5 (1) Where the interest of a Chapter I landlord is [^{F4}subject to a trust of land], any sum payable to the landlord by way of the price payable for the interest on its acquisition in pursuance of Chapter I shall be dealt with as if it were proceeds of sale arising under the trust.
- (2) Where the interest of a Chapter II landlord is [^{F4}subject to a trust of land]—
- (a) any sum payable to the landlord by way of a premium on the grant of a new lease under Chapter II or section 93(4) shall be dealt with as if it were proceeds of sale arising under the trust; ^{F5} . . .
 - ^{F5}(b)

Textual Amendments

- F4** Words in Sch. 2 para. 5(1)(2) substituted (1.1.1997) by 1996 c. 47, s. 25(1), **Sch. 3 para. 27(2)(a)** (with ss. 24(2), 25(4)); S.I. 1996/2974, **art.2**
- F5** Sch. 2 para. 5(2)(b) and the word "and" immediately preceding it repealed (1.1.1997) by 1996 c. 47, s. 25(2), **Sch.4** (with ss. 24(2), 25(4)); S.I. 1996/2974, **art.2**

Landlord's interest subject to a settlement

- 6 Where the interest of a Chapter II landlord is subject to a settlement (within the meaning of the Settled Land Act 1925), the purposes authorised—
- (a) by section 73 of that Act for the application of capital money, and
 - (b) by section 71 of that Act as purposes for which money may be raised by mortgage,

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shall include the payment of compensation [^{F6}by the landlord on the termination of a new lease granted under Chapter II or section 93(4) (whether the payment is made in pursuance of an order under section 61 or in pursuance of an agreement made in conformity with paragraph 5 of Schedule 14 without an application having been made under that section)].

Textual Amendments

F6 Words in [Sch. 2 para. 6](#) substituted (1.1.1997) by [1996 c. 47, s. 25\(1\)](#), [Sch. 3 para. 27\(2\)\(b\)](#) (with [ss. 24\(2\), 25\(4\)](#)); [S.I. 1996/2974, art.2](#)

University or college landlords

- 7 (1) Where a Chapter I landlord is a university or college to which the ^{M1}Universities and College Estates Act 1925 applies, any sum payable to the landlord by way of the price payable for any interest on its acquisition in pursuance of Chapter I shall be dealt with as if it were an amount payable by way of consideration on a sale effected under that Act.
- (2) Where a Chapter II landlord is a university or college to which that Act applies—
- (a) any sum payable to the landlord by way of a premium on the grant of a new lease under Chapter II or section 93(4) shall be dealt with as if it were an amount payable by way of consideration on a sale effected under that Act; and
 - (b) the purposes authorised—
 - (i) by section 26 of that Act for the application of capital money, and
 - (ii) by section 31 of that Act as purposes for which money may be raised by mortgage,
 shall include the payment of compensation as mentioned in paragraph [^{F7}6] above.

Textual Amendments

F7 Words in [Sch. 2 para. 7\(2\)\(b\)](#) substituted (1.1.1997) by [1996 c. 47, s. 25\(1\)](#), [Sch. 3 para. 27\(2\)\(c\)](#) (with [ss. 24\(2\), 25\(4\)](#)); [S.I. 1996/2974, art.2](#)

Marginal Citations

M1 [1925 c. 24.](#)

Ecclesiastical landlords

- 8 (1) The provisions of this paragraph shall have effect as regards Chapter I or Chapter II landlords who are ecclesiastical landlords; and in this paragraph “ecclesiastical landlord” means—
- (a) a capitular body within the meaning of the ^{M2}Cathedrals Measure 1963 having an interest as landlord in property, or
 - (b) a diocesan board of finance having an interest as landlord in property belonging to the board as diocesan glebe land.

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- (2) In relation to an interest of an ecclesiastical landlord, the consent of the Church Commissioners shall be required [^{F8}, if their consent would be required if the transaction were carried out under the Cathedrals Measure 1999 or the Endowments and Glebe Measure 1976,] to sanction—
- (a) the provisions to be contained in a conveyance in accordance with section 34 and Schedule 7, or in any lease granted under section 56, and the price or premium payable, except as regards matters determined by the court or [^{F9}the appropriate tribunal];
 - (b) any exercise of the ecclesiastical landlord's rights under section 61, except as aforesaid, and any agreement for the payment of compensation to a tenant in conformity with paragraph 5 of Schedule 14 without an application having been made under that section; and
 - (c) any grant of a lease in pursuance of section 93(4);
- ^{F10}
...
- (3) Where a capitular body has an interest in property which forms part of the endowment of a cathedral church—
- (a) any sum payable to that body by way of—
 - (i) the price payable for any interest in the property on its acquisition in pursuance of Chapter I, or
 - (ii) a premium on the grant of a new lease under Chapter II or section 93(4),shall be treated as part of that endowment; and
 - (b) the powers conferred by sections 21 and 23 of the ^{M3}Cathedrals Measure 1963 in relation to the investment in the acquisition of land of money forming part of the endowment of a cathedral church shall extend to the application of any such money in the payment of compensation as mentioned in paragraph [^{F11}6] above.
- (4) In the case of a diocesan board of finance—
- (a) no consent or concurrence other than that of the Church Commissioners under sub-paragraph (2) above shall be required to a disposition under this Part of the interest of the diocesan board of finance in property (including a grant of a new lease in pursuance of section 93(4));
 - (b) any sum payable to the diocesan board of finance by way of—
 - (i) the price payable for any interest in property on its acquisition in pursuance of Chapter I, or
 - (ii) a premium on the grant of a new lease of property under Chapter II or section 93(4),shall be paid to the [^{F12}Diocesan Board of Finance in which the land is vested] to be applied for purposes for which the proceeds of any such disposition of property by agreement would be applicable under any enactment or Measure authorising such a disposition or disposing of the proceeds of such a disposition; and
 - (c) any sum required for the payment of compensation as mentioned in paragraph [^{F11}6] above may be paid by the [^{F13}Diocesan Board of Finance out of any money held by it].

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(5) In this paragraph “diocesan board of finance” and “diocesan glebe land” have the same meaning as in the ^{M4}Endowments and Glebe Measure 1976.

Textual Amendments

- F8** Words in Sch. 2 para. 8(2) inserted (E.) (1.10.2006) by Church of England (Miscellaneous Provisions) Measure 2006 (No. 1), s. 16(2), **Sch. 5 para. 31(a)**; 2006 No. 2, Instrument made by Archbishops
- F9** Words in Sch. 2 para. 8(2)(a) substituted (1.7.2013) by The Transfer of Tribunal Functions Order 2013 (S.I. 2013/1036), art. 1, **Sch. 1 para. 124** (with Sch. 3)
- F10** Words in Sch. 2 para. 8(2) omitted (E.) (1.10.2006) by virtue of Church of England (Miscellaneous Provisions) Measure 2006 (No. 1), s. 16(2), **Sch. 5 para. 31(a)**; 2006 No. 2, Instrument made by Archbishops
- F11** Words in Sch. 2 para. 8(3)(b)(4)(c) substituted (1.1.1997) by 1996 c. 47, s. 25(1), **Sch. 3 para. 27(2)(c)** (with ss. 24(2), 25(4)); S.I. 1996/2974, **art.2**
- F12** Words in Sch. 2 para. 8(4)(b) substituted (E.) (1.10.2006) by Church of England (Miscellaneous Provisions) Measure 2006 (No. 1), s. 16(2), **Sch. 5 para. 31(b)**; 2006 No. 2, Instrument made by Archbishops
- F13** Words in Sch. 2 para. 8(4)(c) substituted (E.) (1.10.2006) by Church of England (Miscellaneous Provisions) Measure 2006 (No. 1), s. 16(2), **Sch. 5 para. 31(c)**; 2006 No. 2, Instrument made by Archbishops

Modifications etc. (not altering text)

- C1** Sch. 2 para. 8 amended (30.6.1999) by 1999 No. 1, **ss. 36(2)(6), 38(2)(3)** (with ss. 33, 34, 38(6), 37)

Marginal Citations

- M2** 1963 No. 2.
M3 1963 No. 2.
M4 1976 No. 4.

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