

Status: Point in time view as at 01/07/1995.

Changes to legislation: Leasehold Reform, Housing and Urban Development Act 1993, SCHEDULE 7 is up to date with all changes known to be in force on or before 26 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 7

Section 34.

CONVEYANCE TO NOMINEE PURCHASER ON ENFRANCHISEMENT

Commencement Information

II Sch. 7 wholly in force at 1.11.1993 see s. 188(2) and S.I. 1993/2134, art. 5

Interpretation

- 1 In this Schedule—
- (a) “the relevant premises” means, in relation to such a conveyance as is mentioned in section 34(1), the premises of which the freehold is to be conveyed by means of the conveyance;
 - (b) “the freeholder”, in relation to any such conveyance, means the person whose freehold interest in the relevant premises is to be conveyed by means of the conveyance;
 - (c) “other property” means property of which the freehold is not to be acquired by the nominee purchaser under this Chapter; and
 - (d) “the appropriate time” means the time when the freehold of the relevant premises is to be conveyed to the nominee purchaser.

General

- 2 (1) The conveyance shall not exclude or restrict the general words implied in conveyances under section 62 of the ^{M1}Law of Property Act 1925, or the all-estate clause implied under section 63 of that Act, unless—
- (a) the exclusion or restriction is made for the purpose of preserving or recognising any existing interest of the freeholder in tenant’s incumbrances or any existing right or interest of any other person, or
 - (b) the nominee purchaser consents to the exclusion or restriction.
- (2) The freeholder shall not be bound—
- (a) to convey to the nominee purchaser any better title than that which he has or could require to be vested in him, or
 - [^{F1}(b) to enter into any covenant for title beyond those implied under Part I of the Law of Property (Miscellaneous Provisions) Act 1994 in a case where a disposition is expressed to be made with limited title guarantee;
- and in the absence of agreement to the contrary the freeholder shall be entitled to be indemnified by the nominee purchaser in respect of any costs incurred by him in complying with the covenant implied by virtue of section 2(1)(b) of that Act (covenant for further assurance).]

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- (3) In this paragraph “tenant’s incumbrances” includes any interest directly or indirectly derived out of a lease, and any incumbrance on a lease or any such interest (whether or not the same matter is an incumbrance also on any interest reversionary on the lease); and “incumbrances” has the same meaning as it has for the purposes of section 34 of this Act.

Textual Amendments

F1 Sch. 7 para. 2(2)(b) substituted (1.7.1995) by 1994 c. 36, ss. 20, 21(1), Sch. 1 para. 12(3); S.I. 1995/1317, art.2

Marginal Citations

M1 1925 c. 20.

Rights of support, passage of water etc.

- 3 (1) This paragraph applies to rights of any of the following descriptions, namely—
- (a) rights of support for a building or part of a building;
 - (b) rights to the access of light and air to a building or part of a building;
 - (c) rights to the passage of water or of gas or other piped fuel, or to the drainage or disposal of water, sewage, smoke or fumes, or to the use or maintenance of pipes or other installations for such passage, drainage or disposal;
 - (d) rights to the use or maintenance of cables or other installations for the supply of electricity, for the telephone or for the receipt directly or by landline of visual or other wireless transmissions;
- and the provisions required to be included in the conveyance by virtue of subparagraph (2) are accordingly provisions relating to any such rights.
- (2) The conveyance shall include provisions having the effect of—
- (a) granting with the relevant premises (so far as the freeholder is capable of granting them)—
 - (i) all such easements and rights over other property as are necessary to secure as nearly as may be for the benefit of the relevant premises the same rights as exist for the benefit of those premises immediately before the appropriate time, and
 - (ii) such further easements and rights (if any) as are necessary for the reasonable enjoyment of the relevant premises; and
 - (b) making the relevant premises subject to the following easements and rights (so far as they are capable of existing in law), namely—
 - (i) all easements and rights for the benefit of other property to which the relevant premises are subject immediately before the appropriate time, and
 - (ii) such further easements and rights (if any) as are necessary for the reasonable enjoyment of other property, being property in which the freeholder has an interest at the relevant date.

Rights of way

- 4 Any such conveyance shall include—

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- (a) such provisions (if any) as the nominee purchaser may require for the purpose of securing to him and the persons deriving title under him rights of way over other property, so far as the freeholder is capable of granting them, being rights of way that are necessary for the reasonable enjoyment of the relevant premises; and
- (b) such provisions (if any) as the freeholder may require for the purpose of making the relevant premises subject to rights of way necessary for the reasonable enjoyment of other property, being property in which he is to retain an interest after the acquisition of the relevant premises.

Restrictive covenants

- 5 (1) As regards restrictive covenants, the conveyance shall include—
- (a) such provisions (if any) as the freeholder may require to secure that the nominee purchaser is bound by, or to indemnify the freeholder against breaches of, restrictive covenants which—
 - (i) affect the relevant premises otherwise than by virtue of any lease subject to which the relevant premises are to be acquired or any agreement collateral to any such lease, and
 - (ii) are immediately before the appropriate time enforceable for the benefit of other property; and
 - (b) such provisions (if any) as the freeholder or the nominee purchaser may require to secure the continuance (with suitable adaptations) of restrictions arising by virtue of any such lease or collateral agreement as is mentioned in paragraph (a)(i), being either—
 - (i) restrictions affecting the relevant premises which are capable of benefiting other property and (if enforceable only by the freeholder) are such as materially to enhance the value of the other property, or
 - (ii) restrictions affecting other property which are such as materially to enhance the value of the relevant premises; and
 - (c) such further restrictions as the freeholder may require to restrict the use of the relevant premises in a way which—
 - (i) will not interfere with the reasonable enjoyment of those premises as they have been enjoyed during the currency of the leases subject to which they are to be acquired, but
 - (ii) will materially enhance the value of other property in which the freeholder has an interest at the relevant date.
- (2) In this paragraph “restrictive covenant” means a covenant or agreement restrictive of the user of any land or building.

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