

Status: Point in time view as at 01/12/1993.

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SCHEDULES

SCHEDULE 1

Section 9.

CONDUCT OF PROCEEDINGS BY THE REVERSIONER ON BEHALF OF OTHER LANDLORDS

Commencement Information

II Sch. 1 wholly in force at 1.11.1993 see s. 188(2) and S.I. 1993/2134, art. 5

PART I

THE REVERSIONER

Freeholder to be reversioner

1 Subject to paragraphs 2 to 4, the reversioner in respect of any premises is the person who owns the freehold of those premises.

Replacement of freeholder by other relevant landlord

2 The court may, on the application of all the relevant landlords of any premises, appoint to be the reversioner in respect of those premises (in place of the person designated by paragraph 1) such person as may have been determined by agreement between them.

3 If it appears to the court, on the application of a relevant landlord of any premises—

- (a) that the respective interests of the relevant landlords of those premises, the absence or incapacity of the person referred to in paragraph 1 or other special circumstances require that some person other than the person there referred to should act as the reversioner in respect of the premises, or
- (b) that the person referred to in that paragraph is unwilling to act as the reversioner,

the court may appoint to be the reversioner in respect of those premises (in place of the person designated by paragraph 1) such person as it thinks fit.

4 The court may also, on the application of any of the relevant landlords or of the nominee purchaser, remove the reversioner in respect of any premises and appoint another person in his place, if it appears to the court proper to do so by reason of any delay or default, actual or apprehended, on the part of the reversioner.

5 A person appointed by the court under any of paragraphs 2 to 4—

- (a) must be a relevant landlord; but
- (b) may be so appointed on such terms and conditions as the court thinks fit.

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VALID FROM 01/10/1996

[^{F1}PART IA

THE REVERSIONER: PREMISES WITH MULTIPLE FREEHOLDERS

Textual Amendments

- F1** Sch. 1 Pt. 1A inserted (1.10.1996) by 1996 c. 52, s. 107, **Sch. 10 para.15**; S.I. 1996/2212, **art. 2(2)** (with savings in **art. 2(2)**, **Sch. para. 4**)

Initial reversioner

- F2**5A Subject to paragraphs 5B to 5D, in a case to which section 9(2A) applies, the reversioner in respect of any premises is the person specified in the initial notice in accordance with section 13(2A) as the recipient.

Textual Amendments

- F2** Sch. 1 Pt. 1A inserted (1.10.1996) by 1996 c. 52, s. 107, **Sch. 10 para.15**; S.I. 1996/2212, **art. 2(2)** (with savings in **art. 2(2)**, **Sch. para. 4**)

Change of reversioner

- F3**5B The court may, on the application of all the relevant landlords of any premises, appoint to be the reversioner in respect of those premises (in place of the person designated by paragraph 5A) such person as may have been determined by agreement between them.

Textual Amendments

- F3** Sch. 1 Pt. 1A inserted (1.10.1996) by 1996 c. 52, s. 107, **Sch. 10 para.15**; S.I. 1996/2212, **art. 2(2)** (with savings in **art. 2(2)**, **Sch. para. 4**)

- F4**5C If it appears to the court, on the application of a relevant landlord of any premises—
- (a) that the respective interests of the relevant landlords of those premises, the absence or incapacity of the person referred to in paragraph 5A or other special circumstances require that some person other than the person there referred to should act as the reversioner in respect of the premises, or
 - (b) that the person referred to in that paragraph is unwilling to act as the reversioner,
- the court may appoint to be the reversioner in respect of those premises (in place of the person designated by paragraph 5A) such person as it thinks fit.

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Textual Amendments

- F4** Sch. 1 Pt. 1A inserted (1.10.1996) by 1996 c. 52, s. 107, Sch. 10 para.15; S.I. 1996/2212, art. 2(2) (with savings in art. 2(2), Sch. para. 4)

- ^{F5}5D The court may also, on the application of any of the relevant landlords or of the nominee purchaser, remove the reversioner in respect of any premises and appoint another person in his place, if it appears to the court proper to do so by reason of any delay or default, actual or apprehended, on the part of the reversioner.

Textual Amendments

- F5** Sch. 1 Pt. 1A inserted (1.10.1996) by 1996 c. 52, s. 107, Sch. 10 para.15; S.I. 1996/2212, art. 2(2) (with savings in art. 2(2), Sch. para. 4)

- ^{F6}5E A person appointed by the court under any of paragraphs 5B to 5D—
(a) must be a relevant landlord; but
(b) may be so appointed on such terms and conditions as the court thinks fit.]

Textual Amendments

- F6** Sch. 1 Pt. 1A inserted (1.10.1996) by 1996 c. 52, s. 107, Sch. 10 para.15; S.I. 1996/2212, art. 2(2) (with savings in art. 2(2), Sch. para. 4)

PART II

CONDUCT OF PROCEEDINGS ON BEHALF OF OTHER LANDLORDS

Acts of reversioner binding on other landlords

- 6 (1) Without prejudice to the generality of section 9(3)—
- (a) any notice given by or to the reversioner under this Chapter or section 74(3) following the giving of the initial notice shall be given or received by him on behalf of all the relevant landlords; and
 - (b) the reversioner may on behalf and in the name of all or (as the case may be) any of those landlords—
 - (i) deduce, evidence or verify the title to any property;
 - (ii) negotiate and agree with the nominee purchaser the terms of acquisition;
 - (iii) execute any conveyance for the purpose of transferring any interest to the nominee purchaser;
 - (iv) receive the price payable for the acquisition of any interest;
 - (v) take or defend any legal proceedings under this Chapter in respect of matters arising out of the initial notice.
- (2) Subject to paragraph 7—

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- (a) the reversioner's acts in relation to matters within the authority conferred on him by section 9(3), and
 - (b) any determination of the court or a leasehold valuation tribunal under this Chapter in proceedings between the reversioner and the nominee purchaser, shall be binding on the other relevant landlords and on their interests in the specified premises or any other property; but in the event of dispute the reversioner or any of the other relevant landlords may apply to the court for directions as to the manner in which the reversioner should act in the dispute.
- (3) If any of the other relevant landlords cannot be found, or his identity cannot be ascertained, the reversioner shall apply to the court for directions and the court may make such order as it thinks proper with a view to giving effect to the rights of the participating tenants and protecting the interests of other persons, but subject to any such directions—
- (a) the reversioner shall proceed as in other cases;
 - (b) any conveyance executed by the reversioner on behalf of that relevant landlord which identifies the interest to be conveyed shall have the same effect as if executed in his name; and
 - (c) any sum paid as the price for the acquisition of that relevant landlord's interest, and any other sum payable to him by virtue of Schedule 6, shall be paid into court.
- (4) The reversioner, if he acts in good faith and with reasonable care and diligence, shall not be liable to any of the other relevant landlords for any loss or damage caused by any act or omission in the exercise or intended exercise of the authority conferred on him by section 9(3).

Other landlords acting independently

- 7 (1) Notwithstanding anything in section 9(3) or paragraph 6, any of the other relevant landlords shall, at any time after the giving by the reversioner of a counter-notice under section 21 and on giving notice of his intention to do so to both the reversioner and the nominee purchaser, be entitled—
- (a) to deal directly with the nominee purchaser in connection with any of the matters mentioned in sub-paragraphs (i) to (iii) of paragraph 6(1)(b) so far as relating to the acquisition of any interest of his;
 - (b) to be separately represented in any legal proceedings in which his title to any property comes in question, or in any legal proceedings relating to the terms of acquisition so far as relating to the acquisition of any interest of his.
- (2) If the nominee purchaser so requires by notice given to the reversioner and any of the other relevant landlords, that landlord shall deal directly with the nominee purchaser for the purpose of deducing, evidencing or verifying the landlord's title to any property.
- (3) Any of the other relevant landlords may by notice given to the reversioner require him to apply to a leasehold valuation tribunal for the determination by the tribunal of any of the terms of acquisition so far as relating to the acquisition of any interest of the landlord.
- (4) Any of the other relevant landlords may also, on giving notice to the reversioner and the nominee purchaser, require that the price payable for the acquisition of his interest shall be paid by the nominee purchaser to him, or to a person authorised by

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him to receive it, instead of to the reversioner; but if, after being given proper notice of the time and method of completion with the nominee purchaser, either—

- (a) he fails to notify the reversioner of the arrangements made with the nominee purchaser to receive payment, or
- (b) having notified the reversioner of those arrangements, the arrangements are not duly implemented,

the reversioner shall be authorised to receive the payment for him, and the reversioner's written receipt for the amount payable shall be a complete discharge to the nominee purchaser.

Obligations of other landlords to reversioner

- 8 (1) It shall be the duty of each of the other relevant landlords—
- (a) (subject to paragraph 7) to give the reversioner all such information and assistance as he may reasonably require; and
 - (b) after being given proper notice of the time and method of completion with the nominee purchaser, to ensure that all deeds and other documents that ought on his part to be delivered to the nominee purchaser on completion are available for the purpose, including in the case of registered land the land certificate and any other documents necessary to perfect the nominee purchaser's title;

and, if any of the other relevant landlords fails to comply with this sub-paragraph, that relevant landlord shall indemnify the reversioner against any liability incurred by the reversioner in consequence of the failure.

- (2) Each of the other relevant landlords shall make such contribution as shall be just to the costs and expenses properly incurred by the reversioner in pursuance of section 9(3) which are not recoverable or not recovered from the nominee purchaser or any other person.

Applications made by other landlords under section 23(1)

- 9 The authority given to the reversioner by section 9(3) shall not extend to the bringing of proceedings under section 23(1) on behalf of any of the other relevant landlords, or preclude any of those landlords from bringing proceedings under that provision on his own behalf.

SCHEDULE 2

Sections 9 and 40.

SPECIAL CATEGORIES OF LANDLORDS

Commencement Information

12 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—

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“Chapter I landlord” means a person who is, in relation to a claim made under Chapter I, the reversioner or any other 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.

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 sub-paragraph 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 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,

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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

- 3 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.

Landlord under a disability

- 4 Where a Chapter I or Chapter II landlord is incapable by reason of mental disorder (within the meaning of the ^{M1}Mental Health Act 1983) of managing and administering his property and affairs, then for the purposes of Chapter I or (as the case may be) Chapter II—
- (a) the landlord's receiver appointed under Part VII of that Act or Part VIII of the ^{M2}Mental Health Act 1959, or
 - (b) (if no such receiver is acting for him) any person authorised in that behalf, shall, under an order of the authority having jurisdiction under Part VII of the Mental Health Act 1983, take the place of the landlord.

Marginal Citations

M1 1983 c. 20.

M2 1959 c. 72.

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Landlord's interest held on trust for sale

- 5 (1) Where the interest of a Chapter I landlord is held on trust for sale, 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 held on trust for sale—
- (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; and
 - (b) the purposes authorised—
 - (i) by section 73 of the ^{M3}Settled Land Act 1925, as applied by section 28 of the ^{M4}Law of Property Act 1925, for the application of capital money, and
 - (ii) by section 71 of the ^{M5}Settled Land Act 1925, as applied as aforesaid, as purposes for which money may be raised by mortgage,
 shall include the payment of compensation 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).

Marginal Citations

M3 1925 c. 18.
M4 1925 c. 20.
M5 1925 c. 18.

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,
- shall include the payment of compensation as mentioned in paragraph 5(2)(b) above.

University or college landlords

- 7 (1) Where a Chapter I landlord is a university or college to which the ^{M6}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—

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- (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 5(2)(b) above.

Marginal Citations

M6 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 ^{M7}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.
- (2) In relation to an interest of an ecclesiastical landlord, the consent of the Church Commissioners shall be required 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 a leasehold valuation 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);
- and the Church Commissioners shall be entitled to appear and be heard in any proceedings under this Part to which an ecclesiastical landlord is a party or in which he is entitled to appear and be heard.
- (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

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- (b) the powers conferred by sections 21 and 23 of the ^{M8}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 5(2)(b) 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 Church Commissioners 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 5(2)(b) above may be paid by the Church Commissioners on behalf of the diocesan board of finance out of any money held by them.
- (5) In this paragraph “diocesan board of finance” and “diocesan glebe land” have the same meaning as in the ^{M9}Endowments and Glebe Measure 1976.

Marginal Citations

- M7** 1963 No. 2.
M8 1963 No. 2.
M9 1976 No. 4.

SCHEDULE 3

Section 13.

THE INITIAL NOTICE: SUPPLEMENTARY PROVISIONS

Commencement Information

- I3** Sch. 3 wholly in force at 1.11.1993 see s. 188(2) and S.I. 1993/2134, art. 5

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PART I

RESTRICTIONS ON PARTICIPATION BY INDIVIDUAL TENANTS, EFFECT OF CLAIMS ON OTHER NOTICES, FORFEITURES ETC.

Prior notice by tenant terminating lease

- 1 A qualifying tenant of a flat shall not participate in the giving of a relevant notice of claim if the notice is given—
- (a) after the tenant has given notice terminating the lease of the flat (other than a notice that has been superseded by the grant, express or implied, of a new tenancy); or
 - (b) during the subsistence of an agreement for the grant to the tenant of a future tenancy of the flat, where the agreement is one to which paragraph 17 of Schedule 10 to the ^{M10}Local Government and Housing Act 1989 applies.

Marginal Citations

M10 1989 c. 42.

Prior notice by landlord terminating lease

- 2 (1) A qualifying tenant of a flat shall not participate in the giving of a relevant notice of claim if the notice is given more than four months after a landlord's notice terminating the tenant's lease of the flat has been given under section 4 of the ^{M11}Landlord and Tenant Act 1954 or served under paragraph 4(1) of Schedule 10 to the ^{M12}Local Government and Housing Act 1989 (whether or not the notice has effect to terminate the lease).
- (2) Where in the case of any qualifying tenant of a flat—
- (a) any such landlord's notice is given or served as mentioned in sub-paragraph (1), but
 - (b) that notice was not given or served more than four months before the date when a relevant notice of claim is given,
- the landlord's notice shall cease to have effect on that date.
- (3) If—
- (a) any such landlord's notice ceases to have effect by virtue of sub-paragraph (2), but
 - (b) the claim made in pursuance of the relevant notice of claim is not effective, then sub-paragraph (4) shall apply to any landlord's notice terminating the tenant's lease of the flat which—
- (i) is given under section 4 of the Landlord and Tenant Act 1954 or served under paragraph 4(1) of Schedule 10 to the Local Government and Housing Act 1989, and
 - (ii) is so given or served within one month after the expiry of the period of currency of that claim.
- (4) Where this sub-paragraph applies to a landlord's notice, the earliest date which may be specified in the notice as the date of termination shall be—
- (a) in the case of a notice given under section 4 of that Act of 1954—

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- (i) the date of termination specified in the previous notice, or
 - (ii) the date of expiry of the period of three months beginning with the date of the giving of the new notice,
- whichever is the later; or
- (b) in the case of a notice served under paragraph 4(1) of Schedule 10 to that Act of 1989—
 - (i) the date of termination specified in the previous notice, or
 - (ii) the date of expiry of the period of four months beginning with the date of service of the new notice,
 whichever is the later.
- (5) Where—
- (a) by virtue of sub-paragraph (4) a landlord’s notice specifies as the date of termination of a lease a date earlier than six months after the date of the giving of the notice, and
 - (b) the notice proposes a statutory tenancy,
- section 7(2) of the ^{M13}Landlord and Tenant Act 1954 shall apply in relation to the notice with the substitution, for references to the period of two months ending with the date of termination specified in the notice and the beginning of that period, of references to the period of three months beginning with the date of the giving of the notice and the end of that period.

Marginal Citations

- M11** 1954 c. 56.
M12 1989 c. 42.
M13 1954 c. 56.

Orders for possession and pending proceedings for forfeiture etc.

- 3 (1) A qualifying tenant of a flat shall not participate in the giving of a relevant notice of claim if at the time when it is given he is obliged to give up possession of his flat in pursuance of an order of a court or will be so obliged at a date specified in such an order.
- (2) Except with the leave of the court, a qualifying tenant of a flat shall not participate in the giving of a relevant notice of claim at a time when any proceedings are pending to enforce a right of re-entry or forfeiture terminating his lease of the flat.
- (3) Leave shall only be granted under sub-paragraph (2) if the court is satisfied that the tenant does not wish to participate in the giving of such a notice of claim solely or mainly for the purpose of avoiding the consequences of the breach of the terms of his lease in respect of which proceedings are pending.
- (4) If—
- (a) leave is so granted, and
 - (b) a relevant notice of claim is given,
- the tenant’s lease shall be deemed for the purposes of the claim to be a subsisting lease despite the existence of those proceedings and any order made afterwards in those proceedings; and, if the claim is effective, the court in which those proceedings

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were brought may set aside or vary any such order to such extent and on such terms as appear to that court to be appropriate.

Institution of compulsory purchase procedures

- 4 (1) A qualifying tenant of a flat shall not participate in the giving of a relevant notice of claim if on the date when the notice is given—
- (a) any person or body of persons who has or have been, or could be, authorised to acquire the whole or part of the flat compulsorily for any purpose has or have, with a view to its acquisition for that purpose—
 - (i) served a notice to treat on that tenant, or
 - (ii) entered into a contract for the purchase of his interest in the whole or part of the flat; and
 - (b) the notice to treat or contract remains in force.
- (2) Where—
- (a) a relevant notice of claim is given, and
 - (b) during the currency of the claim any such person or body of persons as is mentioned in sub-paragraph (1)(a) serves or serve, in relation to the flat held by a participating tenant, notice to treat as mentioned in that provision,
- the tenant shall cease to be entitled to participate in the making of the claim by virtue of being a qualifying tenant of the flat, and shall accordingly cease to be a participating tenant in respect of the flat.

Notice terminating lease given by tenant or landlord during currency of claim

- 5 Where a relevant notice of claim is given, any notice terminating the lease of any flat held by a participating tenant, whether it is—
- (a) a notice given by the tenant, or
 - (b) a landlord's notice given under section 4 of the ^{M14}Landlord and Tenant Act 1954 or served under paragraph 4(1) of Schedule 10 to the ^{M15}Local Government and Housing Act 1989,
- shall be of no effect if it is given or served during the currency of the claim.

Marginal Citations

M14 1954 c. 56.

M15 1989 c. 42.

Initial notice operates to prevent termination of tenant's lease by other means

- 6 (1) Where a relevant notice of claim is given, then during the currency of the claim and for three months thereafter the lease of any flat held by a participating tenant shall not terminate—
- (a) by effluxion of time, or
 - (b) in pursuance of a notice to quit given by the landlord, or
 - (c) by the termination of a superior lease;

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but if the claim is not effective, and but for this sub-paragraph the lease would have so terminated before the end of those three months, the lease shall so terminate at the end of those three months.

- (2) Sub-paragraph (1) shall not be taken to prevent an earlier termination of the lease in any manner not mentioned in that sub-paragraph, and shall not affect—
- (a) the power under section 146(4) of the ^{M16}Law of Property Act 1925 (relief against forfeiture of leases) to grant a tenant relief against the termination of a superior lease, or
 - (b) any right of the tenant to relief under section 16(2) of the ^{M17}Landlord and Tenant Act 1954 (relief where landlord proceeding to enforce covenants) or under paragraph 9 of Schedule 5 to that Act (relief in proceedings brought by superior landlord).
- (3) The reference in sub-paragraph (2) to section 16(2) of, and paragraph 9 of Schedule 5 to, the Landlord and Tenant Act 1954 includes a reference to those provisions as they apply in relation to Schedule 10 to the Local Government and Housing Act 1989.

Marginal Citations

M16 1925 c. 20.

M17 1954 c. 56.

Restriction on proceedings against participating tenant to enforce right of re-entry or forfeiture

- 7 (1) Where a relevant notice of claim is given, then during the currency of the claim—
- (a) no proceedings to enforce any right of re-entry or forfeiture terminating the lease of any flat held by a participating tenant shall be brought in any court without the leave of that court; and
 - (b) leave shall only be granted if the court is satisfied that the tenant is participating in the making of the claim solely or mainly for the purpose of avoiding the consequences of the breach of the terms of his lease in respect of which proceedings are proposed to be brought.
- (2) If leave is granted under sub-paragraph (1), the tenant shall cease to be entitled to participate in the making of the claim by virtue of being a qualifying tenant of the flat referred to in that sub-paragraph, and shall accordingly cease to be a participating tenant in respect of the flat.

Restrictions for purposes of s. 14(3) on tenant electing to become participating tenant during currency of claim

- 8 (1) Where a relevant notice of claim is given, a qualifying tenant of a flat may not subsequently make an election under section 14(3)—
- (a) if he was prohibited from participating in the giving of the notice by virtue of paragraph 1, 2(1), 3(1) or 4(1) above; or
 - (b) at a time when he would be so prohibited from participating in the giving of a relevant notice of claim, if such a notice were to be given then.
- (2) Where a relevant notice of claim is given, then except with the leave of the court, a qualifying tenant of a flat may not subsequently make an election under section 14(3)

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at a time when any proceedings are pending to enforce a right of re-entry or forfeiture terminating his lease of the flat.

- (3) Leave shall only be granted under sub-paragraph (2) if the court is satisfied that the tenant does not wish to make such an election solely or mainly for the purpose of avoiding the consequences of the breach of the terms of his lease in respect of which proceedings are pending.
- (4) If—
- (a) leave is so granted, and
 - (b) the tenant makes such an election,
- the tenant's lease shall be deemed for the purposes of the claim to be a subsisting lease despite the existence of those proceedings and any order made afterwards in those proceedings; and, if the claim is effective, the court in which those proceedings were brought may set aside or vary any such order to such extent and on such terms as appear to that court to be appropriate.
- (5) References in this paragraph and paragraph 9 below to making an election under section 14(3) are references to making such an election to participate in the making of the claim in respect of which the relevant notice of claim is given.

Effect of tenant's election on certain notices given by landlord

- 9 (1) This paragraph applies to a qualifying tenant of a flat who, following the giving of a relevant notice of claim, makes an election under section 14(3).
- (2) Where in the case of any such tenant—
- (a) a landlord's notice terminating the tenant's lease of the flat has been given or served as mentioned in paragraph 2(1) above (whether or not the notice has effect to terminate the lease), but
 - (b) that notice was not given or served more than four months before the date when the tenant makes his election under section 14(3),
- the landlord's notice shall cease to have effect on that date.
- (3) If—
- (a) any such landlord's notice ceases to have effect by virtue of sub-paragraph (2) above, but
 - (b) the claim made in pursuance of the relevant notice of claim is not effective, then paragraph 2(4) above shall apply to any landlord's notice terminating the tenant's lease of the flat which—
- (i) is given under section 4 of the ^{M18}Landlord and Tenant Act 1954 or served under paragraph 4(1) of Schedule 10 to the ^{M19}Local Government and Housing Act 1989, and
 - (ii) is so given or served within one month after the expiry of the period of currency of that claim;
- and paragraph 2(5) above shall apply accordingly.
- (4) Paragraph 8(5) above applies for the purposes of this paragraph.

Marginal Citations

M18 1954 c. 56.

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M19 1989 c. 42.

Interpretation

- 10 (1) For the purposes of this Part of this Schedule—
- (a) “relevant notice of claim”, in relation to any flat, means a notice under section 13 in the case of which the specified premises contain that flat, and references to participating in the giving of such a notice are references to being one of the persons by whom the notice is given;
 - (b) references to a notice under section 13 include, in so far as the context permits, references to a notice purporting to be given under that section (whether by persons who are qualifying tenants or not);
 - (c) references to a claim being effective are references to a binding contract being entered into for the acquisition of the freehold and other interests falling to be acquired in pursuance of the claim or to the making of an order under section 24(4)(a) or (b) or 25(6)(a) or (b) which provides for the vesting of those interests; and
 - (d) references to the currency of a claim are—
 - (i) where the claim is made by a valid notice under section 13, references to the period during which the notice continues in force in accordance with subsection (11) of that section, or
 - (ii) where the claim is made by a notice which is not a valid notice under section 13, references to the period beginning with the giving of the notice and ending with the time when the notice is set aside by the court or is withdrawn or when it would (if valid) cease to have effect or be deemed to have been withdrawn.
- (2) For the purposes of sub-paragraph (1)(d) the date when a notice is set aside, or would (if valid) cease to have effect, in consequence of an order of a court shall be taken to be the date when the order becomes final.

PART II

PROCEDURE FOR GIVING COPIES TO RELEVANT LANDLORDS

Application of Part II

- 11 This Part of this Schedule has effect where a notice under section 13 is given in a case to which section 9(2) applies.

Qualifying tenants to give copies of initial notice

- 12 (1) The qualifying tenants by whom the initial notice is given shall, in addition to giving the initial notice to the reversioner in respect of the specified premises, give a copy of the notice to every other person known or believed by them to be a relevant landlord of those premises.

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- (2) The initial notice shall state whether copies are being given in accordance with sub-paragraph (1) to anyone other than the recipient and, if so, to whom.

VALID FROM 01/10/1996

[^{F7}12A(1) In a case to which section 9(2A) applies, the qualifying tenants by whom the initial notice is given shall, in addition to giving the initial notice to the person specified in it as the recipient, give a copy of the notice to every other person known or believed by them to be a relevant landlord of the specified premises.

- (2) The initial notice shall state whether copies are being given in accordance with sub-paragraph (1) to anyone other than the person specified in it as the recipient and, if so, to whom.]

Textual Amendments

F7 Sch. 3 Pt. II para. 12A inserted (1.10.1996) by 1996 c. 52, s. 107, Sch. 10 para. 17(4); S.I. 1996/2212, art. 2(2) (with savings in art. 2(2), Sch. para. 4)

Recipient of notice or copy to give further copies

- 13 (1) Subject to sub-paragraph (2), a recipient of the initial notice or of a copy of it (including a person receiving a copy under this sub-paragraph) shall forthwith give a copy to any person who—
- (a) is known or believed by him to be a relevant landlord, and
 - (b) is not stated in the recipient's copy of the notice, or known by him, to have received a copy.
- (2) Sub-paragraph (1) does not apply where the recipient is neither the reversioner nor another relevant landlord.
- (3) Where a person gives any copies of the initial notice in accordance with sub-paragraph (1), he shall—
- (a) supplement the statement under paragraph 12(2) by adding any further persons to whom he is giving copies or who are known to him to have received one; and
 - (b) notify the qualifying tenants by whom the initial notice is given of the persons added by him to that statement.

Consequences of failure to comply with paragraph 12 or 13

- 14 (1) Where—
- (a) a relevant landlord of the specified premises does not receive a copy of the initial notice before the end of the period specified in it in pursuance of section 13(3)(g), but
 - (b) he was given a notice under section 11 by any of the qualifying tenants by whom the initial notice was given and, in response to the notice under

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that section, notified the tenant in question of his interest in the specified premises,

the initial notice shall cease to have effect at the end of that period.

(2) Where—

- (a) sub-paragraph (1) does not apply, but
- (b) any person fails without reasonable cause to comply with paragraph 12 or 13 above, or is guilty of any unreasonable delay in complying with either of those paragraphs,

he shall be liable for any loss thereby occasioned to the qualifying tenants by whom the initial notice was given or to the reversioner or any other relevant landlord.

PART III

OTHER PROVISIONS

Inaccuracies or misdescription in initial notice

15 (1) The initial notice shall not be invalidated by any inaccuracy in any of the particulars required by section 13(3) or by any misdescription of any of the property to which the claim extends.

(2) Where the initial notice—

- (a) specifies any property or interest which was not liable to acquisition under or by virtue of section 1 or 2, or
- (b) fails to specify any property or interest which is so liable to acquisition,

the notice may, with the leave of the court and on such terms as the court may think fit, be amended so as to exclude or include the property or interest in question.

(3) Where the initial notice is so amended as to exclude any property or interest, references to the property or interests specified in the notice under any provision of section 13(3) shall be construed accordingly; and, where it is so amended as to include any property or interest, the property or interest shall be treated as if it had been specified under the provision of that section under which it would have fallen to be specified if its acquisition had been proposed at the relevant date.

Effect on initial notice of tenant's lack of qualification to participate

16 (1) It is hereby declared that, where at the relevant date any of the persons by whom the initial notice is given—

- (a) is not a qualifying tenant of a flat contained in the specified premises, or
- (b) is such a qualifying tenant but is prohibited from participating in the giving of the notice by virtue of Part I of this Schedule, or
- (c) (if it is claimed in the notice that he satisfies the residence condition) does not satisfy that condition,

the notice shall not be invalidated on that account, so long as the notice was in fact properly given by a sufficient number of qualifying tenants of flats contained in the premises as at the relevant date, and not less than one-half of the qualifying tenants by whom it was so given then satisfied the residence condition.

(2) For the purposes of sub-paragraph (1) a sufficient number is a number which—

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- (a) is not less than two-thirds of the total number of qualifying tenants of flats contained in the specified premises as at the relevant date, and
- (b) is not less than one-half of the total number of flats so contained.

SCHEDULE 4

Section 21.

INFORMATION TO BE FURNISHED BY REVERSIONER ABOUT EXERCISE OF RIGHTS UNDER CHAPTER II

Commencement Information

I4 Sch. 4 wholly in force at 1.11.1993 see s. 188(2) and S.I. 1993/2134, art. 5

Information to accompany counter-notice

- 1 (1) This paragraph applies where before the date of the giving of a counter-notice under section 21 the reversioner or any other relevant landlord—
- (a) has received—
 - (i) a notice given under section 42 with respect to any flat contained in the specified premises (being a notice to which section 54(1) or (2) applies on that date), or
 - (ii) a copy of such a notice, or
 - (b) has given any counter-notice under section 45 in response to any such notice.
- (2) A copy of every notice which, or a copy of which, has been received as mentioned in sub-paragraph (1)(a), and a copy of every counter-notice which has been given as mentioned in sub-paragraph (1)(b), shall either—
- (a) accompany any counter-notice given under section 21, or
 - (b) be given to the nominee purchaser by the reversioner as soon as possible after the date of the giving of any such counter-notice.

Continuing duty to furnish information

- 2 (1) Subject to sub-paragraph (3), this paragraph applies where on or after the date of the giving of a counter-notice under section 21 the reversioner or any other relevant landlord receives—
- (a) a notice given under section 42 with respect to any flat contained in the specified premises or a copy of such a notice, or
 - (b) any notice of withdrawal given under section 52 and relating to any notice under section 42 of which a copy has already been furnished to the nominee purchaser under this Schedule.
- (2) A copy of every notice which, or a copy of which, is received as mentioned in sub-paragraph (1)(a) or (b) shall be given to the nominee purchaser by the reversioner as soon as possible after the time when the notice or copy is received by the reversioner or (as the case may be) the other relevant landlord.
- (3) This paragraph does not apply if the notice or copy is received by the reversioner or (as the case may be) the other relevant landlord otherwise than at a time when—

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- (a) the initial notice continues in force, or
- (b) a binding contract entered into in pursuance of that notice remains in force, or
- (c) where an order has been made under section 24(4)(a) or (b) or 25(6)(a) or (b) with respect to the specified premises, any interests which by virtue of the order fall to be vested in the nominee purchaser have yet to be so vested.

Duty of other landlords to furnish copies to reversioner

- 3 (1) Without prejudice to the generality of paragraph 8(1)(a) of Schedule 1, the duty imposed by that provision shall extend to requiring any relevant landlord (other than the reversioner) who—
- (a) receives a relevant notice or a copy of such a notice, or
 - (b) gives a relevant counter-notice,
- to furnish a copy of the notice or counter-notice to the reversioner as soon as possible after the time when the notice or copy is received or (as the case may be) the counter-notice is given by the relevant landlord.
- (2) In this paragraph “relevant notice” and “relevant counter-notice” mean respectively any notice of which a copy is required to be given to the nominee purchaser by the reversioner in accordance with this Schedule and any counter-notice of which a copy is required to be so given.

SCHEDULE 5

Sections 24 and 25.

VESTING ORDERS UNDER SECTIONS 24 AND 25

Commencement Information

I5 Sch. 5 wholly in force at 1.11.1993 see s. 188(2) and S.I. 1993/2134, art. 5

Interpretation

- 1 (1) In this Schedule “a vesting order” means an order made by the court under section 24(4)(a) or (b) or section 25(6)(a) or (b).
- (2) In this Schedule “the relevant terms of acquisition”, in relation to any such order, means the terms of acquisition referred to in section 24(4)(a) or (b) or section 25(6)(a) or (b), as the case may be.

Execution of conveyance

- 2 (1) Where any interests are to be vested in the nominee purchaser by virtue of a vesting order, then on his paying into court the appropriate sum in respect of each of those interests there shall be executed by such person as the court may designate a conveyance which—
- (a) is in a form approved by a leasehold valuation tribunal, and
 - (b) contains such provisions as may be so approved for the purpose of giving effect to the relevant terms of acquisition.

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- (2) The conveyance shall be effective to vest in the nominee purchaser the interests expressed to be conveyed, subject to and in accordance with the terms of the conveyance.

The appropriate sum

- 3 (1) In the case of any vesting order, the appropriate sum which in accordance with paragraph 2(1) is to be paid into court in respect of any interest is the aggregate of—
- (a) such amount as is fixed by the relevant terms of acquisition as the price which is payable in accordance with Schedule 6 in respect of that interest; and
 - (b) any amounts or estimated amounts determined by a leasehold valuation tribunal as being, at the time of execution of the conveyance, due to the transferor from any tenants of his of premises comprised in the premises in which that interest subsists (whether due under or in respect of their leases or under or in respect of agreements collateral thereto).
- (2) In this paragraph “the transferor”, in relation to any interest, means the person from whom the interest is to be acquired by the nominee purchaser.

Effect of payment of appropriate sum into court

- 4 Where any interest is vested in the nominee purchaser in accordance with this Schedule, the payment into court of the appropriate sum in respect of that interest shall be taken to have satisfied any claims against the nominee purchaser or the participating tenants, or the personal representatives or assigns of any of them, in respect of the price payable under this Chapter for the acquisition of that interest.

Supplemental

- 5 (1) In the provisions specified in sub-paragraph (2) references to a binding contract being entered into in pursuance of the initial notice shall be read as including references to the making of a vesting order.
- (2) Those provisions are—
- (a) section 14(11);
 - (b) section 15(12) (except so far as it provides for the interpretation of references to the nominee purchaser);
 - (c) section 16(10);
 - (d) section 19(5)(b);
 - (e) section 28(1);
 - (f) section 30(4); and
 - (g) section 31(4).
- (3) Where, at any time after a vesting order is made but before the interests falling to be vested in the nominee purchaser by virtue of the order have been so vested, any acquiring authority (within the meaning of section 30) serves notice to treat as mentioned in subsection (1)(a) of that section, the vesting order shall cease to have effect.
- (4) Where sub-paragraph (3) applies to any vesting order, then on the occasion of the compulsory acquisition in question the compensation payable in respect of any interest in the specified premises (whether or not the one to which the notice to treat

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relates) shall be determined on the basis of the value of the interest subject to and with the benefit of the rights and obligations arising from the initial notice and affecting the interest.

- (5) In section 38(2) (except so far as it provides for the interpretation of references to the proposed acquisition by the nominee purchaser) the reference to a contract entered into in pursuance of the initial notice shall be read as including a reference to a vesting order.

SCHEDULE 6

Section 32.

PURCHASE PRICE PAYABLE BY NOMINEE PURCHASER

Commencement Information

I6 Sch. 6 wholly in force at 1.11.1993 see s. 188(2) and S.I. 1993/2134, art. 5

PART I

GENERAL

Interpretation and operation of Schedule

- 1 (1) In this Schedule—
- “the freeholder” means the person who owns the freehold of the specified premises;
 - “intermediate leasehold interest” means the interest of the tenant under a lease which is superior to the lease held by a qualifying tenant of a flat contained in the specified premises, to the extent that—
 - (a) any such interest is to be acquired by the nominee purchaser by virtue of section 2(1)(a), and
 - (b) it is an interest in the specified premises;
 - “the valuation date” means the date when the interest in the specified premises which is to be acquired by the nominee purchaser from the freeholder is determined either by agreement or by a leasehold valuation tribunal under this Chapter.
- (2) Parts II to IV of this Schedule have effect subject to the provisions of Parts V and VI (which relate to interests with negative values).

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PART II

FREEHOLD OF SPECIFIED PREMISES

Price payable for freehold of specified premises

- 2 (1) Subject to the provisions of this paragraph, the price payable by the nominee purchaser for the freehold of the specified premises shall be the aggregate of—
 - (a) the value of the freeholder's interest in the premises as determined in accordance with paragraph 3,
 - (b) the freeholder's share of the marriage value as determined in accordance with paragraph 4, and
 - (c) any amount of compensation payable to the freeholder under paragraph 5.
- (2) Where the amount arrived at in accordance with sub-paragraph (1) is a negative amount, the price payable by the nominee purchaser for the freehold shall be nil.

Value of freeholder's interest

- 3 (1) Subject to the provisions of this paragraph, the value of the freeholder's interest in the specified premises is the amount which at the valuation date that interest might be expected to realise if sold on the open market by a willing seller (with neither the nominee purchaser nor any participating tenant buying or seeking to buy) on the following assumptions—
 - (a) on the assumption that the vendor is selling for an estate in fee simple—
 - (i) subject to any leases subject to which the freeholder's interest in the premises is to be acquired by the nominee purchaser, but
 - (ii) subject also to any intermediate or other leasehold interests in the premises which are to be acquired by the nominee purchaser;
 - (b) on the assumption that this Chapter and Chapter II confer no right to acquire any interest in the specified premises or to acquire any new lease (except that this shall not preclude the taking into account of a notice given under section 42 with respect to a flat contained in the specified premises where it is given by a person other than a participating tenant);
 - (c) on the assumption that any increase in the value of any flat held by a participating tenant which is attributable to an improvement carried out at his own expense by the tenant or by any predecessor in title is to be disregarded; and
 - (d) on the assumption that (subject to paragraphs (a) and (b)) the vendor is selling with and subject to the rights and burdens with and subject to which the conveyance to the nominee purchaser of the freeholder's interest is to be made, and in particular with and subject to such permanent or extended rights and burdens as are to be created in order to give effect to Schedule 7.
- (2) It is hereby declared that the fact that sub-paragraph (1) requires assumptions to be made as to the matters specified in paragraphs (a) to (d) of that sub-paragraph does not preclude the making of assumptions as to other matters where those assumptions are appropriate for determining the amount which at the valuation date

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the freeholder's interest in the specified premises might be expected to realise if sold as mentioned in that sub-paragraph.

- (3) In determining that amount there shall be made such deduction (if any) in respect of any defect in title as on a sale of the interest on the open market might be expected to be allowed between a willing seller and a willing buyer.
- (4) Where a lease of any flat or other unit contained in the specified premises is to be granted to the freeholder in accordance with section 36 and Schedule 9, the value of his interest in those premises at the valuation date so far as relating to that flat or other unit shall be taken to be the difference as at that date between—
 - (a) the value of his freehold interest in it, and
 - (b) the value of his interest in it under that lease, assuming it to have been granted to him at that date;
 and each of those values shall, so far as is appropriate, be determined in like manner as the value of the freeholder's interest in the whole of the specified premises is determined for the purposes of paragraph 2(1)(a).
- (5) The value of the freeholder's interest in the specified premises shall not be increased by reason of—
 - (a) any transaction which—
 - (i) is entered into on or after the date of the passing of this Act (otherwise than in pursuance of a contract entered into before that date), and
 - (ii) involves the creation or transfer of an interest superior to (whether or not preceding) any interest held by a qualifying tenant of a flat contained in the specified premises; or
 - (b) any alteration on or after that date of the terms on which any such superior interest is held.
- (6) Sub-paragraph (5) shall not have the effect of preventing an increase in value of the freeholder's interest in the specified premises in a case where the increase is attributable to any such leasehold interest with a negative value as is mentioned in paragraph 14(2).

Freeholder's share of marriage value

- 4 (1) The marriage value is the amount referred to in sub-paragraph (2), and the freeholder's share of the marriage value is—
 - (a) such proportion of that amount as is determined by agreement between the reversioner and the nominee purchaser or, in default of agreement, as is determined by a leasehold valuation tribunal to be the proportion which in its opinion would have been determined by an agreement made at the valuation date between the parties on a sale on the open market by a willing seller, or
 - (b) 50 per cent. of that amount,
 whichever is the greater.
- (2) The marriage value is any increase in the aggregate value of the freehold and every intermediate leasehold interest in the specified premises, when regarded as being (in consequence of their being acquired by the nominee purchaser) interests under the control of the participating tenants, as compared with the aggregate value of those

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- interests when held by the persons from whom they are to be so acquired, being an increase in value—
- (a) which is attributable to the potential ability of the participating tenants, once those interests have been so acquired, to have new leases granted to them without payment of any premium and without restriction as to length of term, and
 - (b) which, if those interests were being sold to the nominee purchaser on the open market by willing sellers, the nominee purchaser would have to agree to share with the sellers in order to reach agreement as to price.
- (3) For the purposes of sub-paragraph (2) the value of the freehold or any intermediate leasehold interest in the specified premises when held by the person from whom it is to be acquired by the nominee purchaser and its value when acquired by the nominee purchaser—
- (a) shall be determined on the same basis as the value of the interest is determined for the purposes of paragraph 2(1)(a) or (as the case may be) paragraph 6(1)(b)(i); and
 - (b) shall be so determined as at the valuation date.
- (4) Accordingly, in so determining the value of an interest when acquired by the nominee purchaser—
- (a) the same assumptions shall be made under paragraph 3(1) (or, as the case may be, under paragraph 3(1) as applied by paragraph 7(1)) as are to be made under that provision in determining the value of the interest when held by the person from whom it is to be acquired by the nominee purchaser; and
 - (b) any merger or other circumstances affecting the interest on its acquisition by the nominee purchaser shall be disregarded.

Compensation for loss resulting from enfranchisement

- 5 (1) Where the freeholder will suffer any loss or damage to which this paragraph applies, there shall be payable to him such amount as is reasonable to compensate him for that loss or damage.
- (2) This paragraph applies to—
- (a) any diminution in value of any interest of the freeholder in other property resulting from the acquisition of his interest in the specified premises; and
 - (b) any other loss or damage which results therefrom to the extent that it is referable to his ownership of any interest in other property.
- (3) Without prejudice to the generality of paragraph (b) of sub-paragraph (2), the kinds of loss falling within that paragraph include loss of development value in relation to the specified premises to the extent that it is referable as mentioned in that paragraph.
- (4) In sub-paragraph (3) “development value”, in relation to the specified premises, means any increase in the value of the freeholder’s interest in the premises which is attributable to the possibility of demolishing, reconstructing, or carrying out substantial works of construction on, the whole or a substantial part of the premises.
- (5) Where the freeholder will suffer loss or damage to which this paragraph applies, then in determining the amount of compensation payable to him under this paragraph, it shall not be material that—

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- (a) the loss or damage could to any extent be avoided or reduced by the grant to him, in accordance with section 36 and Schedule 9, of a lease granted in pursuance of Part III of that Schedule, and
- (b) he is not requiring the nominee purchaser to grant any such lease.

VALID FROM 01/10/1996

F⁸ Price payable for freehold of part of specified premises

Textual Amendments

F8 Sch. 6 para. 5A-5C and cross heading inserted (1.10.1996) by 1996 c. 52, s. 107, **Sch. 10 para. 18(5)**; S.I. 1996/2212, **art. 2(2)** (with saving in Sch.)

- F⁹5A** (1) Where different persons own the freehold of different parts of the specified premises—
- (a) a separate price shall be payable by the nominee purchaser for the freehold of each of those parts, and
 - (b) sub-paragraph (2) shall apply to determine the price so payable.
- (2) Subject to sub-paragraph (3), the price payable by the nominee purchaser for the freehold of part of the specified premises shall be the aggregate of—
- (a) the value of the freeholder’s interest in the part as determined in accordance with paragraph 3, modified as mentioned in paragraph 5B, and
 - (b) the freeholder’s share of the marriage value as determined in accordance with paragraph 4, modified as mentioned in paragraph 5C, and
 - (c) any amount of compensation payable to the freeholder under paragraph 5.
- (3) Where the amount arrived at in accordance with sub-paragraph (2) is a negative amount, the price payable by the nominee purchaser for the freehold of the part shall be nil.

Textual Amendments

F9 Sch. 6 para. 5A-5C and cross heading inserted (1.10.1996) by 1996 c. 52, s. 107, **Sch. 10 para. 18(5)**; S.I. 1996/2212, **art. 2(2)** (with saving in Sch.)

- F¹⁰5B** (1) In its application in accordance with paragraph 5A(2)(a), paragraph 3 shall have effect with the following modifications.
- (2) In sub-paragraph (1)(a)(ii), there shall be inserted at the end “so far as relating to the part of the premises in which the freeholder’s interest subsists”.
 - (3) In sub-paragraph (1A), after paragraph (a) there shall be inserted—
 - (“ an owner of a freehold interest in the specified premises, or”.
 - (4) In sub-paragraph (4)—
 - (a) the words “the whole of” shall be omitted, and
 - (b) for “2(1)(a)” there shall be substituted “5A(2)(a)”.

Status: Point in time view as at 01/12/1993.

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Textual Amendments

F10 Sch. 6 para. 5A-5C and cross heading inserted (1.10.1996) by 1996 c. 52, s. 107, Sch. 10 para. 18(5); S.I. 1996/2212, art. 2(2) (with saving in Sch.)

^{F11}5C (1) In its application in accordance with paragraph 5A(2)(b), paragraph 4 shall have effect with the following modifications.

(2) In sub-paragraph (2)—

- (a) after “the specified premises” there shall be inserted “so far as relating to the part of the premises in which the freeholder’s interest subsists”,
- (b) after “participating tenants”, where it first occurs, there shall be inserted “in whose flats the freeholder’s interest subsists”, and
- (c) in paragraph (a), for “the”, where it second occurs, there shall be substituted “those”.

(3) In sub-paragraph (3)—

- (a) after “the specified premises” there shall be inserted “so far as relating to the part of the premises in which the freeholder’s interest subsists”, and
- (b) in paragraph (a), for “2(1)(a)” there shall be substituted “5A(2)(a)”.

(4) In sub-paragraph (4)(a), after “3(1)”, where it first occurs, there shall be inserted “as applied by paragraph 5A(2)(a)”.]

Textual Amendments

F11 Sch. 6 para. 5A-5C and cross heading inserted (1.10.1996) by 1996 c. 52, s. 107, Sch. 10 para. 18(5); S.I. 1996/2212, art. 2(2) (with saving in Sch.)

PART III

INTERMEDIATE LEASEHOLD INTERESTS

Price payable for intermediate leasehold interests

6 (1) Where the nominee purchaser is to acquire one or more intermediate leasehold interests—

- (a) a separate price shall be payable for each of those interests, and
- (b) (subject to the provisions of this paragraph) that price shall be the aggregate of—
 - (i) the value of the interest as determined in accordance with paragraph 7, and
 - (ii) any amount of compensation payable to the owner of that interest in accordance with paragraph 8.

(2) Where in the case of any intermediate leasehold interest the amount arrived at in accordance with sub-paragraph (1)(b) is a negative amount, the price payable by the nominee purchaser for the interest shall be nil.

Status: Point in time view as at 01/12/1993.

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Value of intermediate leasehold interests

- 7 (1) Subject to sub-paragraph (2), paragraph 3 shall apply for determining the value of any intermediate leasehold interest for the purposes of paragraph 6(1)(b)(i) with such modifications as are appropriate to relate that paragraph to a sale of the interest in question subject (where applicable) to any leases intermediate between that interest and any lease held by a qualifying tenant of a flat contained in the specified premises.
- (2) The value of an intermediate leasehold interest which is the interest of the tenant under a minor intermediate lease shall be calculated by applying the formula set out in sub-paragraph (7) instead of in accordance with sub-paragraph (1).
- (3) “A minor intermediate lease” means a lease complying with the following requirements, namely—
- (a) it must have an expectation of possession of not more than one month, and
 - (b) the profit rent in respect of the lease must be not more than £5 per year;
- and, in the case of a lease which is in immediate reversion on two or more leases, those requirements must be complied with in connection with each of the sub-leases.
- (4) Where a minor intermediate lease is in immediate reversion on two or more leases—
- (a) the formula set out in sub-paragraph (7) shall be applied in relation to each of those sub-leases (and sub-paragraphs (5) and (6) shall also so apply); and
 - (b) the value of the interest of the tenant under the minor intermediate lease shall accordingly be the aggregate of the amounts calculated by so applying the formula.
- (5) “Profit rent” means an amount equal to that of the rent payable under the lease on which the minor intermediate lease is in immediate reversion, less that of the rent payable under the minor intermediate lease.
- (6) Where the minor intermediate lease or that on which it is in immediate reversion comprises property other than a flat held by a qualifying tenant, then in sub-paragraph (5) the reference to the rent payable under it means so much of that rent as is apportioned to any such flat.
- (7) The formula is—

$$P = \pounds \frac{R}{Y} - \frac{R}{Y(1+Y)^n}$$

where—

P = the price payable;

R = the profit rent;

Y = the yield (expressed as a decimal fraction) from 2½ per cent. Consolidated Stock;

n = the period, expressed in years (taking any part of a year as a whole year), of the remainder of the term of the minor intermediate lease as at the valuation date.

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- (8) In calculating the yield from 2½ per cent. Consolidated Stock, the price of that stock shall be taken to be the middle market price at the close of business on the last trading day in the week before the valuation date.
- (9) For the purposes of this paragraph the expectation of possession carried by a lease in relation to a lease (“the sub-lease”) on which it is in immediate reversion is the expectation of possession which it carries at the valuation date after the sub-lease, on the basis that—
- (a) (subject to sub-paragraph (10)) where the sub-lease is a lease held by a qualifying tenant of a flat contained in the specified premises, it terminates at the valuation date if its term date fell before then, or else it terminates on its term date; and
 - (b) in any other case, the sub-lease terminates on its term date.
- (10) In a case where before the relevant date for the purposes of this Chapter the landlord of any such qualifying tenant as is mentioned in sub-paragraph (9)(a) had given notice to quit terminating the tenant’s sub-lease on a date earlier than that date, the date specified in the notice to quit shall be substituted for the date specified in that provision.

Compensation for loss on acquisition of interest

- 8 Sub-paragraphs (1) to (4) of paragraph 5 shall apply in relation to the owner of any intermediate leasehold interest as they apply in relation to the freeholder.

Owners of intermediate interests entitled to part of marriage value

- 9 (1) This paragraph applies where—
- (a) the price payable for the freehold of the specified premises includes an amount in respect of the freeholder’s share of the marriage value, and
 - (b) the nominee purchaser is to acquire any intermediate leasehold interests.
- (2) The amount payable to the freeholder in respect of his share of the marriage value shall be divided between the freeholder and the owners of the intermediate leasehold interests in proportion to the value of their respective interests in the specified premises (as determined for the purposes of paragraph 2(1)(a) or paragraph 6(1)(b)(i), as the case may be).
- (3) Where the owner of an intermediate leasehold interest is entitled in accordance with sub-paragraph (2) to any part of the amount payable to the freeholder in respect of the freeholder’s share of the marriage value, the amount to which he is so entitled shall be payable to him by the freeholder.

VALID FROM 01/10/1996

- ^{F12}9A (1) This paragraph applies where paragraph 5A applies and—
- (a) the price payable for the freehold of a part of the specified premises includes an amount in respect of the freeholder’s share of the marriage value, and

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- (b) the nominee purchaser is to acquire any intermediate leasehold interests which subsist in that part.
- (2) The amount payable to the freeholder of the part in respect of his share of the marriage value shall be divided between the freeholder and the owners of the intermediate leasehold interests which subsist in that part in proportion to the value of their respective interests in the part (as determined for the purposes of paragraph 5A(2)(a) or paragraph 6(1)(b)(i), as the case may be).
- (3) Where an intermediate leasehold interest subsists not only in the part of the specified premises in which the freeholder’s interest subsists (“the relevant part”) but also in another part of those premises—
- (a) the value of the intermediate leasehold interest as determined for the purposes of paragraph 6(1)(b)(i) shall be apportioned between the relevant part and the other part of the specified premises in which it subsists, and
- (b) sub-paragraph (2) shall have effect as if the reference to the value of the intermediate leasehold interest in the relevant part as determined for the purposes of paragraph 6(1)(b)(i) were to the value of that interest as determined on an apportionment in accordance with paragraph (a).
- (4) Where the owner of an intermediate leasehold interest is entitled in accordance with sub-paragraph (2) to any part of the amount payable to the freeholder in respect of the freeholder’s share of the marriage value, the amount to which he is so entitled shall be payable to him by the freeholder.]

Textual Amendments

F12 Sch. 6 para. 9A inserted (1.10.1996) by 1996 c. 52, s. 107, **Sch. 10 para. 18(8)**; S.I. 1996/2212, **art. 2(2)** (with saving in Sch.)

PART IV

OTHER INTERESTS TO BE ACQUIRED

Price payable for other interests

- 10 (1) Where the nominee purchaser is to acquire any freehold interest in pursuance of section 1(2)(a) or (4) or section 21(4), then (subject to sub-paragraph (3) below) the price payable for that interest shall be the aggregate of—
- (a) the value of the interest as determined in accordance with paragraph 11,
- (b) any share of the marriage value to which the owner of the interest is entitled under paragraph 12, and
- (c) any amount of compensation payable to the owner of the interest in accordance with paragraph 13.
- (2) Where the nominee purchaser is to acquire any leasehold interest by virtue of section 2(1) other than an intermediate leasehold interest, or he is to acquire any leasehold interest in pursuance of section 21(4), then (subject to sub-paragraph (3) below) the price payable for that interest shall be the aggregate of—
- (a) the value of the interest as determined in accordance with paragraph 11, and

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- (b) any amount of compensation payable to the owner of the interest in accordance with paragraph 13.
- (3) Where in the case of any interest the amount arrived at in accordance with sub-paragraph (1) or (2) is a negative amount, the price payable by the nominee purchaser for the interest shall be nil.

Value of other interests

- 11 (1) In the case of any such freehold interest as is mentioned in paragraph 10(1), paragraph 3 shall apply for determining the value of the interest with such modifications as are appropriate to relate it to a sale of the interest subject (where applicable) to any leases intermediate between that interest and any lease held by a qualifying tenant of a flat contained in the specified premises.
- (2) In the case of any such leasehold interest as is mentioned in paragraph 10(2), then—
 - (a) (unless paragraph (b) below applies) paragraph 3 shall apply as mentioned in sub-paragraph (1) above;
 - (b) if it is the interest of the tenant under a minor intermediate lease within the meaning of paragraph 7, sub-paragraphs (2) to (10) of that paragraph shall apply with such modifications as are appropriate for determining the value of the interest.
- (3) In its application in accordance with sub-paragraph (1) or (2) above, paragraph 3(6) shall have effect as if the reference to paragraph 14(2) were a reference to paragraph 18(2).

Marriage value

- 12 (1) Where any such freehold interest as is mentioned in paragraph 10(1) is an interest in any such property as is mentioned in section 1(3)(a)—
 - (a) sub-paragraphs (2) to (4) of paragraph 4 shall apply with such modifications as are appropriate for determining the marriage value in connection with the acquisition by the nominee purchaser of that interest; and
 - (b) sub-paragraph (1) of that paragraph shall apply with such modifications as are appropriate for determining the share of the marriage value to which the owner of that interest is entitled.
- (2) Where—
 - (a) the owner of any such freehold interest is entitled to any share of the marriage value in respect of any such property, and
 - (b) the nominee purchaser is to acquire any leasehold interests in that property superior to any lease held by a participating tenant,the amount payable to the owner of the freehold interest in respect of his share of the marriage value in respect of that property shall be divided between the owner of that interest and the owners of the leasehold interests in proportion to the value of their respective interests in that property (as determined for the purposes of paragraph 10(1) or (2), as the case may be).
- (3) Where the owner of any such leasehold interest (“the intermediate landlord”) is entitled in accordance with sub-paragraph (2) to any part of the amount payable to the owner of any freehold interest in respect of his share of the marriage value in

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respect of any property, the amount to which the intermediate landlord is so entitled shall be payable to him by the owner of that freehold interest.

Compensation for loss on acquisition of interest

- 13 Sub-paragraphs (1) to (4) of paragraph 5 shall apply in relation to the owner of any such freehold or leasehold interest as is mentioned in paragraph 10(1) or (2) and to the acquisition of that interest as they apply in relation to the freeholder and to the acquisition of his interest in the specified premises (and accordingly any reference in those provisions of paragraph 5 to the specified premises shall be read for this purpose as a reference to the property in which any such freehold or leasehold interest subsists).

PART V

**VALUATION ETC. OF INTERESTS IN SPECIFIED
PREMISES WITH NEGATIVE VALUES**

Valuation of freehold and intermediate leasehold interests

- 14 (1) Where—
- (a) the value of the freeholder’s interest in the specified premises (as determined in accordance with paragraph 3), or
 - (b) the value of any intermediate leasehold interest (as determined in accordance with paragraph 7),
- is a negative amount, the value of the interest for the relevant purposes shall be nil.
- (2) Where sub-paragraph (1) applies to any intermediate leasehold interest whose value is a negative amount (“the negative interest”), then for the relevant purposes any interests in the specified premises superior to the negative interest and having a positive value shall be reduced in value—
- (a) beginning with the interest which is immediately superior to the negative interest and continuing (if necessary) with any such other superior interests in order of proximity to the negative interest;
 - (b) until the aggregate amount of the reduction is equal to the negative amount in question; and
 - (c) without reducing the value of any interest to less than nil.
- (3) In a case where sub-paragraph (1) applies to two or more intermediate leasehold interests whose values are negative amounts, sub-paragraph (2) shall apply separately in relation to each of those interests—
- (a) beginning with the interest which is inferior to every other of those interests and then in order of proximity to that interest; and
 - (b) with any reduction in the value of any interest for the relevant purposes by virtue of any prior application of sub-paragraph (2) being taken into account.
- (4) For the purposes of sub-paragraph (2) an interest has a positive value if (apart from that sub-paragraph) its value for the relevant purposes is a positive amount.

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- (5) In this Part of this Schedule “the relevant purposes”—
- (a) as respects the freeholder’s interest in the specified premises, means the purposes of paragraph 2(1)(a); and
 - (b) as respects any intermediate leasehold interest, means the purposes of paragraph 6(1)(b)(i).

Calculation of marriage value

- 15 (1) Where (as determined in accordance with paragraph 4(3) and (4)) the value of any interest—
- (a) when held by the person from whom it is to be acquired by the nominee purchaser, or
 - (b) when acquired by the nominee purchaser,
- is a negative amount, then for the purposes of paragraph 4(2) the value of the interest when so held or acquired shall be nil.
- (2) Where sub-paragraph (1) above applies to any intermediate leasehold interest whose value when held or acquired as mentioned in paragraph (a) or (b) of that sub-paragraph is a negative amount, paragraph 14(2) to (4) shall apply for determining for the purposes of paragraph 4(2) the value when so held or acquired of other interests in the specified premises, as if—
- (a) any reference to paragraph 14(1) were a reference to sub-paragraph (1) above; and
 - (b) any reference to the relevant purposes were, as respects any interest, a reference to the purposes of paragraph 4(2) as it applies to the interest when so held or acquired.
- (3) References in paragraph 16 or 17 to paragraph 14(2) or (3) do not extend to that provision as it applies in accordance with sub-paragraph (2) above.

Apportionment of marriage value

- 16 (1) Where paragraph 14(1) applies to an interest, the value of the interest for the purposes of paragraph 9(2) shall be nil, unless sub-paragraph (2) below applies.
- (2) In a case where paragraph 14(1) applies to the freeholder’s interest in the specified premises and to every intermediate leasehold interest—
- (a) sub-paragraph (1) above shall not apply for the purposes of paragraph 9(2); and
 - (b) any division falling to be made on the proportional basis referred to in paragraph 9(2) shall be so made in such a way as to secure that the greater the negativity of an interest’s value the smaller the share in respect of the interest.
- (3) In a case where—
- (a) paragraph 14(2) operates to reduce the value of any such superior interest as is there mentioned (“the superior interest”), and
 - (b) after the operation of that provision there remains any interest whose value for the relevant purposes is a positive amount,

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the value of the superior interest for the purposes of paragraph 9(2) shall be the value which (in accordance with paragraph 14(2)) it has for the relevant purposes.

(4) In a case where—

- (a) paragraph 14(2) operates to reduce the value of any such superior interest as is there mentioned (“the superior interest”), but
- (b) after the operation of that provision there remains no such interest as is mentioned in sub-paragraph (3)(b) above,

the value of the superior interest for the purposes of paragraph 9(2) shall be the value which it has for the relevant purposes apart from paragraph 14(2).

Adjustment of compensation

17 (1) Where—

- (a) paragraph 14(2) operates to reduce the value of any such superior interest as is there mentioned (“the superior interest”), and
- (b) apart from this paragraph any amount of compensation is payable under paragraph 8 to the owner of any relevant inferior interest in respect of that interest,

there shall be payable to the owner of the superior interest so much of the amount of compensation as is equal to the amount of the reduction or, if less than that amount, the whole of the amount of compensation.

(2) Where—

- (a) paragraph 14(2) operates to reduce the value of two or more such superior interests as are there mentioned (“the superior interests”), and
- (b) apart from this paragraph any amount of compensation is payable under paragraph 8 to the owner of any relevant inferior interest in respect of that interest,

sub-paragraph (1) shall apply in the first instance as if the reference to the owner of the superior interest were to the owner of such of the superior interests as is furthest from the negative interest, and then, as respects any remaining amount of compensation, as if that reference were to the owner of such of the superior interests as is next furthest from the negative interest, and so on.

(3) In sub-paragraph (1) or (2) “relevant inferior interest”, in relation to any interest whose value is reduced as mentioned in that sub-paragraph (“the superior interest”), means—

- (a) the negative interest on account of which any such reduction is made, or
- (b) any other interest intermediate between that negative interest and the superior interest;

but sub-paragraph (1) shall apply in the first instance in relation to any amount of compensation payable to the owner of that negative interest, and then, for the purpose of offsetting (so far as possible) any reduction remaining to be offset in accordance with sub-paragraph (1) or (2), in relation to any amount of compensation payable to the owner of the interest immediately superior to that negative interest, and so on in order of proximity to it.

(4) To the extent that an amount of compensation is payable to the owner of any interest by virtue of this paragraph—

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- (a) paragraph 2(1)(c) or 6(1)(b)(ii) shall have effect as if it were an amount of compensation payable to him, as owner of that interest, in accordance with paragraph 5 or 8, as the case may be; and
 - (b) the person who would otherwise have been entitled to it in accordance with paragraph 8 shall accordingly not be so entitled.
- (5) In a case where paragraph 14(2) applies separately in relation to two or more negative interests in accordance with paragraph 14(3), the preceding provisions of this paragraph shall similarly apply separately in relation to the reductions made on account of each of those interests, and shall so apply—
- (a) according to the order determined by paragraph 14(3)(a); and
 - (b) with there being taken into account any reduction in the amount of compensation payable to any person under paragraph 8 which results from the prior application of the preceding provisions of this paragraph.

PART VI

VALUATION ETC. OF OTHER INTERESTS WITH NEGATIVE VALUES

Valuation of freehold and leasehold interests

- 18 (1) Where—
- (a) the value of any freehold interest (as determined in accordance with paragraph 11(1)), or
 - (b) the value of any leasehold interest (as determined in accordance with paragraph 11(2)),
- is a negative amount, the value of the interest for the relevant purposes shall be nil.
- (2) Where, in the case of any property, sub-paragraph (1) applies to any leasehold interest in the property whose value is a negative amount (“the negative interest”), then for the relevant purposes any interests in the property superior to the negative interest and having a positive value shall, if they are interests which are to be acquired by the nominee purchaser, be reduced in value—
- (a) beginning with the interest which is nearest to the negative interest and continuing (if necessary) with any such other superior interests in order of proximity to the negative interest;
 - (b) until the aggregate amount of the reduction is equal to the negative amount in question; and
 - (c) without reducing the value of any interest to less than nil.
- (3) In a case where sub-paragraph (1) applies to two or more leasehold interests in any property whose values are negative amounts, sub-paragraph (2) shall apply separately in relation to each of those interests—
- (a) beginning with the interest which is inferior to every other of those interests and then in order of proximity to that interest; and
 - (b) with any reduction in the value of any interest for the relevant purposes by virtue of any prior application of sub-paragraph (2) being taken into account.
- (4) For the purposes of sub-paragraph (2) an interest has a positive value if (apart from that sub-paragraph) its value for the relevant purposes is a positive amount.

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- (5) In this Part of this Schedule “the relevant purposes”—
- (a) as respects any freehold interest, means the purposes of paragraph 10(1)(a); and
 - (b) as respects any leasehold interest, means the purposes of paragraph 10(2)(a).

Calculation of marriage value

- 19 (1) Where (as determined in accordance with paragraph 4(3) and (4)) the value of any interest—
- (a) when held by the person from whom it is to be acquired by the nominee purchaser, or
 - (b) when acquired by the nominee purchaser,
- is a negative amount, then for the purposes of paragraph 4(2) the value of the interest when so held or acquired shall be nil.
- (2) Where, in the case of any property, sub-paragraph (1) above applies to any leasehold interest in the property whose value when held or acquired as mentioned in paragraph (a) or (b) of that sub-paragraph is a negative amount, paragraph 18(2) to (4) shall apply for determining for the purposes of paragraph 4(2) the value when so held or acquired of other interests in the property, as if—
- (a) any reference to paragraph 18(1) were a reference to sub-paragraph (1) above; and
 - (b) any reference to the relevant purposes were, as respects any interest, a reference to the purposes of paragraph 4(2) as it applies to the interest when so held or acquired.
- (3) In this paragraph any reference to any provision of paragraph 4 is a reference to that provision as it applies in accordance with paragraph 12(1).
- (4) References in paragraph 20 or 21 to paragraph 18(2) or (3) do not extend to that provision as it applies in accordance with sub-paragraph (2) above.

Apportionment of marriage value

- 20 (1) Where paragraph 18(1) applies to any interest in any property to which paragraph 12(1) applies, the value of the interest for the purposes of paragraph 12(2) shall be nil, unless sub-paragraph (2) below applies.
- (2) Where, in the case of any property, paragraph 18(1) applies to every interest which is to be acquired by the nominee purchaser—
- (a) sub-paragraph (1) above shall not apply for the purposes of paragraph 12(2); and
 - (b) any division falling to be made on the proportional basis referred to in paragraph 12(2) shall be so made in such a way as to secure that the greater the negativity of an interest’s value the smaller the share in respect of the interest.
- (3) Where in the case of any property—
- (a) paragraph 18(2) operates to reduce the value of any such superior interest as is there mentioned (“the superior interest”), and

Status: Point in time view as at 01/12/1993.

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(b) after the operation of that provision there remains any interest which is to be acquired by the nominee purchaser and whose value for the relevant purposes is a positive amount,

the value of the superior interest for the purposes of paragraph 12(2) shall be the value which (in accordance with paragraph 18(2)) it has for the relevant purposes.

(4) Where in the case of any property—

(a) paragraph 18(2) operates to reduce the value of any such superior interest as is there mentioned (“the superior interest”), but

(b) after the operation of that provision there remains no such interest as is mentioned in sub-paragraph (3)(b) above,

the value of the superior interest for the purposes of paragraph 12(2) shall be the value which it has for the relevant purposes apart from paragraph 18(2).

Adjustment of compensation

21 (1) Where in the case of any property—

(a) paragraph 18(2) operates to reduce the value of any such superior interest as is there mentioned (“the superior interest”), and

(b) apart from this paragraph any amount of compensation is payable by virtue of paragraph 13 to the owner of any relevant inferior interest in respect of that interest,

there shall be payable to the owner of the superior interest so much of the amount of compensation as is equal to the amount of the reduction or, if less than that amount, the whole of the amount of compensation.

(2) Where in the case of any property—

(a) paragraph 18(2) operates to reduce the value of two or more such superior interests as are there mentioned (“the superior interests”), and

(b) apart from this paragraph any amount of compensation is payable by virtue of paragraph 13 to the owner of any relevant inferior interest in respect of that interest,

sub-paragraph (1) shall apply in the first instance as if the reference to the owner of the superior interest were to the owner of such of the superior interests as is furthest from the negative interest, and then, as respects any remaining amount of compensation, as if that reference were to the owner of such of the superior interests as is next furthest from the negative interest, and so on.

(3) In sub-paragraph (1) or (2) “relevant inferior interest”, in relation to any interest whose value is reduced as mentioned in that sub-paragraph (“the superior interest”), means—

(a) the negative interest on account of which any such reduction is made, or

(b) any other interest in the property in question which is to be acquired by the nominee purchaser and is intermediate between that negative interest and the superior interest;

but sub-paragraph (1) shall apply in the first instance in relation to any amount of compensation payable to the owner of that negative interest, and then, for the purpose of offsetting (so far as possible) any reduction remaining to be offset in accordance with sub-paragraph (1) or (2), in relation to any amount of compensation payable to the owner of such interest falling within paragraph (b) above as is nearest to that negative interest, and so on in order of proximity to it.

Status: Point in time view as at 01/12/1993.

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- (4) To the extent that an amount of compensation is payable to the owner of any interest by virtue of this paragraph—
- (a) paragraph 10(1)(c) or (as the case may be) paragraph 10(2)(b) shall have effect as if it were an amount of compensation payable to him, as owner of that interest, in accordance with paragraph 13; and
 - (b) the person who would otherwise have been entitled to it in accordance with paragraph 13 shall accordingly not be so entitled.
- (5) In a case where paragraph 18(2) applies separately in relation to two or more negative interests in accordance with paragraph 18(3), the preceding provisions of this paragraph shall similarly apply separately in relation to the reductions made on account of each of those interests, and shall so apply—
- (a) according to the order determined by paragraph 18(3)(a); and
 - (b) with there being taken into account any reduction in the amount of compensation payable to any person by virtue of paragraph 13 which results from the prior application of the preceding provisions of this paragraph.

SCHEDULE 7

Section 34.

CONVEYANCE TO NOMINEE PURCHASER ON ENFRANCHISEMENT

Commencement Information

17 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 ^{M20}Law of Property Act 1925, or the all-estate clause implied under section 63 of that Act, unless—

Status: Point in time view as at 01/12/1993.

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- (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
 - (b) to enter into any covenant for title other than such covenant as under section 76(1)(F) of the ^{M21}Law of Property Act 1925 is implied in the case of a person conveying, and expressed to convey, as trustee or mortgagee.
- (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.

Marginal Citations

M20 1925 c. 20.

M21 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 sub-paragraph (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—

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- (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—
- (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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SCHEDULE 8

Section 35.

DISCHARGE OF MORTGAGES ETC.: SUPPLEMENTARY PROVISIONS

Commencement Information

18 Sch. 8 wholly in force at 1.11.1993 see s. 188(2) and S.I. 1993/2134, art. 5

Construction

- 1 In this Schedule—
- “the consideration payable” means the consideration payable for the acquisition of the relevant interest;
 - “the landlord” means the person from whom the relevant interest is being acquired;
 - “the relevant interest” means any such interest as is mentioned in paragraph 2(1).

Duty of nominee purchaser to redeem mortgages

- 2 (1) Where in accordance with section 35(1) a conveyance will operate to discharge any interest from a mortgage to secure the payment of money, it shall be the duty of the nominee purchaser to apply the consideration payable, in the first instance, in or towards the redemption of any such mortgage (and, if there are more than one, then according to their priorities).
- (2) If any amount payable in accordance with sub-paragraph (1) to the person entitled to the benefit of a mortgage is not so paid, nor paid into court in accordance with paragraph 4, the relevant interest shall remain subject to the mortgage as regards the amount in question, and to that extent section 35(1) shall not apply.
- (3) Subject to sub-paragraph (4), sub-paragraph (1) shall not apply to 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) shall not have effect in relation to a charge in favour of trustees for debenture holders which, at the date of the conveyance by virtue of which the relevant interest is acquired by the nominee purchaser, is (as regards that interest) a specific and not a floating charge.

Determination of amounts due in respect of mortgages

- 3 (1) For the purpose of determining the amount payable in respect of any mortgage under paragraph 2(1)—
- (a) a person entitled to the benefit of a mortgage to which that provision applies shall not be permitted to exercise any right to consolidate that mortgage with a separate mortgage on other property; and
 - (b) if the landlord or any participating tenant is himself entitled to the benefit of a mortgage to which that provision applies, it shall rank for payment as it would if another person were entitled to it, and the nominee purchaser shall

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be entitled to retain the appropriate amount in respect of any such mortgage of a participating tenant.

- (2) For the purpose of discharging any interest from a mortgage 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 mortgage, 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—
- (a) in respect of the costs of re-investment or other incidental costs and expenses; and
 - (b) in respect of any reduction in the rate of interest obtainable on re-investment.

Payments into court

- 4 (1) Where under section 35(1) any interest is to be discharged from a mortgage and, in accordance with paragraph 2(1), a person is or may be entitled in respect of the mortgage 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 mortgage, or
 - (b) for any reason mentioned in sub-paragraph (2) below difficulty arises in making a payment in respect of the mortgage,
- the nominee purchaser may pay into court on account of the consideration payable the amount, if known, of the payment to be made in respect of the mortgage or, if that amount is not known, the whole of that consideration or such lesser amount as the nominee purchaser 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 his identity cannot be 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 nominee purchaser if, before execution of the conveyance referred to in paragraph 2(1), notice is given to him—
- (a) that the landlord, or a person entitled to the benefit of a mortgage on the relevant interest, 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 mortgage on the relevant interest 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

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in the notice other than a county court, payment shall be made into the court so specified.

Savings

- 5 (1) Where any interest is discharged by section 35(1) from a mortgage (without the obligations secured by the mortgage being satisfied by the receipt of the whole or part of the consideration payable), the discharge of that interest from the mortgage 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 or section 35 shall be construed as preventing a person from joining in the conveyance referred to in paragraph 2(1) for the purpose of discharging the relevant interest from any mortgage 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 9

Section 36.

GRANT OF LEASES BACK TO FORMER FREEHOLDER

Extent Information

E1 Sch. 9 wholly in force at 1.11.1993 see s. 188(2) and S.I. 1993/2134, art. 5

PART I

GENERAL

- 1 (1) In this Schedule—
- “the appropriate time” means the time when the freehold of the specified premises is acquired by the nominee purchaser;
 - “the demised premises”, in relation to a lease granted or to be granted in pursuance of Part II or III of this Schedule, means—
 - (a) the flat or other unit demised or to be demised under the lease, or
 - (b) in the case of such a lease under which two or more units are demised, both or all of those units or (if the context so permits) any of them;
 - “the freeholder” means the person who owns the freehold of the specified premises immediately before the appropriate time;
 - “housing association” has the meaning given by section 1(1) of the ^{M22}Housing Associations Act 1985;
 - “intermediate landlord”, in relation to a flat or other unit let to a tenant, means a person who holds a leasehold interest in the flat or other unit which is superior to that held by the tenant’s immediate landlord;
 - “other property” means property other than the demised premises.

Status: Point in time view as at 01/12/1993.

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- (2) In this Schedule any reference to a flat or other unit, in the context of the grant of a lease of it, includes any yard, garden, garage, outhouses and appurtenances belonging to or usually enjoyed with it and let with it immediately before the appropriate time.

Marginal Citations

M22 1985 c. 69.

PART II

MANDATORY LEASEBACK

Flats etc. let under secure tenancies

- 2 (1) This paragraph applies where immediately before the appropriate time any flat contained in the specified premises is let under a secure tenancy and either—
- (a) the freeholder is the tenant’s immediate landlord, or
 - (b) the freeholder is a public sector landlord and every intermediate landlord of the flat (as well as the immediate landlord under the secure tenancy) is also a public sector landlord.
- (2) Sub-paragraph (1)(b) has effect whether any such intermediate landlord, or the immediate landlord under the secure tenancy, is or is not a qualifying tenant of the flat.
- (3) Where this paragraph applies, the nominee purchaser shall grant to the freeholder a lease of the flat in accordance with section 36 and paragraph 4 below.
- (4) In this paragraph any reference to a flat includes a reference to a unit (other than a flat) which is used as a dwelling.

Flats etc. let by housing associations under tenancies other than secure tenancies

- 3 (1) This paragraph applies where immediately before the appropriate time any flat contained in the specified premises is let by a housing association under a tenancy other than a secure tenancy and—
- (a) the housing association is the freeholder, and
 - (b) the tenant is not a qualifying tenant of the flat.
- (2) Where this paragraph applies, the nominee purchaser shall grant to the freeholder (that is to say, the housing association) a lease of the flat in accordance with section 36 and paragraph 4 below.
- (3) In this paragraph any reference to a flat includes a reference to a unit (other than a flat) which is used as a dwelling.

Status: Point in time view as at 01/12/1993.

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Provisions as to terms of lease

- 4 (1) Any lease granted to the freeholder in pursuance of paragraph 2 or 3, and any agreement collateral to it, shall conform with the provisions of Part IV of this Schedule except to the extent that any departure from those provisions is agreed to by the nominee purchaser and the freeholder with the approval of a leasehold valuation tribunal.
- (2) A leasehold valuation tribunal shall not approve any such departure from those provisions unless it appears to the tribunal that it is reasonable in the circumstances.
- (3) In determining whether any such departure is reasonable in the circumstances, the tribunal shall have particular regard to the interests of the tenant under the secure tenancy referred to in paragraph 2(1) or (as the case may be) under the housing association tenancy referred to in paragraph 3(1).
- (4) Subject to the preceding provisions of this paragraph, any such lease or agreement as is mentioned in sub-paragraph (1) may include such terms as are reasonable in the circumstances.

PART III

RIGHT OF FREEHOLDER TO REQUIRE LEASEBACK OF CERTAIN UNITS

Flats without qualifying tenants and other units

- 5 (1) Subject to sub-paragraph (3), this paragraph applies to any unit contained in the specified premises which is not immediately before the appropriate time a flat let to a person who is a qualifying tenant of it.
- (2) Where this paragraph applies, the nominee purchaser shall, if the freeholder by notice requires him to do so, grant to the freeholder a lease of the unit in accordance with section 36 and paragraph 7 below.
- (3) This paragraph does not apply to a flat or other unit to which paragraph 2 or 3 applies.

Flat etc. occupied by resident landlord

- 6 (1) This paragraph applies where immediately before the appropriate time—
- (a) the specified premises are premises with a resident landlord; and
 - (b) the freeholder is the person by virtue of whose occupation of a flat or other unit contained in those premises they are premises with a resident landlord; and
 - (c) the freeholder is a qualifying tenant of that flat or other unit (“the relevant unit”).
- (2) Where this paragraph applies—

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- (a) the nominee purchaser shall, if the freeholder by notice requires him to do so, grant to him a lease of the relevant unit in accordance with section 36 and paragraph 7 below; and
 - (b) any lease of that unit held by the freeholder immediately before the appropriate time shall be deemed to have been surrendered by him on the grant of the lease referred to in paragraph (a).
- (3) Sections 5, 7 and 8 shall apply for the purpose of determining whether, for the purposes of sub-paragraph (1)(c) above, the freeholder is a qualifying tenant of a unit other than a flat as they apply for the purpose of determining whether a person is a qualifying tenant of a flat.

Provisions as to terms of lease

- 7 (1) Any lease granted to the freeholder in pursuance of paragraph 5 or 6, and any agreement collateral to it, shall conform with the provisions of Part IV of this Schedule except to the extent that any departure from those provisions—
- (a) is agreed to by the nominee purchaser and the freeholder; or
 - (b) is directed by a leasehold valuation tribunal on an application made by either of those persons.
- (2) A leasehold valuation tribunal shall not direct any such departure from those provisions unless it appears to the tribunal that it is reasonable in the circumstances.
- (3) In determining whether any such departure is reasonable in the circumstances, the tribunal shall have particular regard to the interests of any person who will be the tenant of the flat or other unit in question under a lease inferior to the lease to be granted to the freeholder.
- (4) Subject to the preceding provisions of this paragraph, any such lease or agreement as is mentioned in sub-paragraph (1) may include such terms as are reasonable in the circumstances.

PART IV

TERMS OF LEASE GRANTED TO FREEHOLDER

Duration of lease and rent

- 8 The lease shall be a lease granted for a term of 999 years at a peppercorn rent.

General rights to be granted

- 9 The lease shall not exclude or restrict the general words implied under section 62 of the ^{M23}Law of Property Act 1925, unless the exclusion or restriction is made for the purpose of preserving or recognising an existing right or interest of any person.

Marginal Citations

M23 1925 c. 20.

Status: Point in time view as at 01/12/1993.

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VALID FROM 01/07/1995

[^{F13}Covenants for title

Textual Amendments

F13 Sch. 9 para. 9A and cross heading inserted (1.7.1995) by 1994 c. 36, s. 20, 21(1), Sch. 1 para. 12(4); S.I. 1995/1317, art.2

- ^{F14}9A The lessor shall not be bound to enter into any covenant for title beyond—
- (a) those implied from the grant, and
 - (b) 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.]

Textual Amendments

F14 Sch. 9 para. 9A and cross heading inserted (1.7.1995) by 1994 c. 36, s. 20, 21(1), Sch. 1 para. 12(4); S.I. 1995/1317, art. 2

Rights of support, passage of water etc.

- 10 (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; and
 - (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 lease by virtue of sub-paragraph (2) are accordingly provisions relating to any such rights.
- (2) The lease shall include provisions having the effect of—
- (a) granting with the demised premises (so far as the lessor 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 demised 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 demised premises; and
 - (b) making the demised 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 demised premises are subject immediately before the appropriate time, and

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- (ii) such further easements and rights (if any) as are necessary for the reasonable enjoyment of other property, being property in which the lessor acquires an interest at the appropriate time.

Rights of way

- 11 The lease shall include—
- (a) such provisions (if any) as the lessee may require for the purpose of securing to him, and persons deriving title under him, rights of way over other property (so far as the lessor is capable of granting them), being rights of way that are necessary for the reasonable enjoyment of the demised premises; and
 - (b) such provisions (if any) as the lessor may require for the purpose of making the demised premises subject to rights of way necessary for the reasonable enjoyment of other property, being property in which the lessor acquires an interest at the appropriate time.

Common use of premises and facilities

- 12 The lease shall include, so far as the lessor is capable of granting them, the like rights to use in common with others any premises, facilities or services as are enjoyed immediately before the appropriate time by any tenant of the demised premises.

Covenants affecting demised premises

- 13 The lease shall include such provisions (if any) as the lessor may require to secure that the lessee is bound by, or to indemnify the lessor against breaches of, restrictive covenants (that is to say, covenants or agreements restrictive of the use of any land or premises) affecting the demised premises immediately before the appropriate time and enforceable for the benefit of other property.

Covenants by lessor

- 14 (1) The lease shall include covenants by the lessor—
- (a) to keep in repair the structure and exterior of the demised premises and of the specified premises (including drains, gutters and external pipes) and to make good any defect affecting that structure;
 - (b) to keep in repair any other property over or in respect of which the lessee has rights by virtue of this Schedule;
 - (c) to ensure, so far as practicable, that the services which are to be provided by the lessor and to which the lessee is entitled (whether alone or in common with others) are maintained at a reasonable level, and to keep in repair any installation connected with the provision of any of those services.
- (2) The lease shall include a covenant requiring the lessor—
- (a) to insure the specified premises for their full reinstatement value against destruction or damage by fire, tempest, flood or any other cause against the risk of which it is the normal practice to insure;
 - (b) to rebuild or reinstate the demised premises or the specified premises in the case of any such destruction or damage.

Status: Point in time view as at 01/12/1993.

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Covenants by lessee

- 15 The lease shall include a covenant by the lessee to ensure that the interior of the demised premises is kept in good repair (including decorative repair).

Contributions by lessee

- 16 (1) The lease may require the lessee to bear a reasonable part of the costs incurred by the lessor in discharging or insuring against the obligations imposed by the covenants required by paragraph 14(1) or in discharging the obligation imposed by the covenant required by paragraph 14(2)(a).
- (2) Where a covenant required by paragraph 14(1) or (2)(a) has been modified to any extent in accordance with paragraph 4 or 7, the reference in sub-paragraph (1) above to the obligations or (as the case may be) the obligation imposed by that covenant shall be read as a reference to the obligations or obligation imposed by that covenant as so modified.

Assignment and sub-letting of premises

- 17 (1) Except where the demised premises consist of or include any unit let or intended for letting on a business lease, the lease shall not include any provision prohibiting or restricting the assignment of the lease or the sub-letting of the whole or part of the demised premises.
- (2) Where the demised premises consist of or include any such unit as is mentioned in sub-paragraph (1), the lease shall contain a prohibition against—
- (a) assigning or sub-letting the whole or part of any such unit, or
 - (b) altering the user of any such unit,
- without the prior written consent of the lessor (such consent not to be unreasonably withheld).

Restriction on terminating lease

- 18 The lease shall not include any provision for the lease to be terminated otherwise than by forfeiture on breach of any term of the lease by the lessee.

SCHEDULE 10

Section 37.

ACQUISITION OF INTERESTS FROM LOCAL AUTHORITIES ETC.

Commencement Information

19 Sch. 10 wholly in force at 1.11.1993 see s. 188(2) and S.I. 1993/2134, art. 5

Disapplication of provisions relating to disposals by local authorities etc.

- 1 (1) It is hereby declared that nothing in any of the provisions specified in sub-paragraph (2) (which impose requirements as to consent or consultation or other

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restrictions in relation to disposals falling within those provisions) applies to any disposal of a freehold or leasehold interest in any premises which is made in pursuance of this Chapter.

- (2) The provisions referred to in sub-paragraph (1) are—
- (a) sections 32 and 43 of the ^{M24}Housing Act 1985 (disposals of land by local authorities) and section 133 of the ^{M25}Housing Act 1988 (certain subsequent disposals);
 - (b) section 9(1) and (1A) of the ^{M26}Housing Associations Act 1985 (disposals by registered and unregistered housing associations);
 - (c) section 79(1) and (2) of the Housing Act 1988 (disposals by housing action trusts) and section 81 of that Act (certain subsequent disposals); and
 - (d) section 105(1) of that Act (disposals subsequent to change of landlord of secure tenants).

Marginal Citations

M24 1985 c. 68.
M25 1988 c. 50.
M26 1985 c. 69.

Provisions relating to secure tenants following leaseback

- 2 (1) This paragraph applies where a lease is granted to a public sector landlord in pursuance of paragraph 2 of Schedule 9.
- (2) Where—
- (a) immediately before the appropriate time the public sector landlord was the immediate landlord under a secure tenancy of a flat contained in the demised premises, and
 - (b) that tenancy continues in force after the grant of the lease referred to in sub-paragraph (1),
- the tenant shall be deemed to have continued without interruption as tenant of the landlord under the secure tenancy, despite the disposal of the landlord's interest which immediately preceded the grant of the lease referred to in that sub-paragraph.
- (3) Where—
- (a) immediately before the appropriate time a person was a successor in relation to a secure tenancy of a flat contained in the demised premises, and
 - (b) that person is, in connection with the grant of the lease referred to in sub-paragraph (1), granted a new secure tenancy of that flat which is a tenancy for a term certain,
- then for the purposes of sections 87 to 90 of the ^{M27}Housing Act 1985 (succession on death of tenant) that person shall also be a successor in relation to the new tenancy.
- (4) Where—
- (a) immediately before the appropriate time a person was the tenant under a secure tenancy of a flat contained in the demised premises, and

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- (b) that person is, in connection with the grant of the lease referred to in sub-paragraph (1), granted a new secure tenancy of that flat,
then, for the purpose of determining whether either of the conditions referred to in sub-paragraph (5) is satisfied, the new tenancy shall not be regarded as a new letting of the flat but shall instead be regarded as a continuation of the secure tenancy referred to in paragraph (a) above.
- (5) Those conditions are—
- (a) the condition specified in sub-paragraph (1)(b) of paragraph 5 of Schedule 5 to the Housing Act 1985 (exception to the right to buy in case of letting in connection with employment); and
- (b) the condition specified in sub-paragraph (1)(b) of paragraph 11 of that Schedule (exception to the right to buy in case of letting for occupation by person of pensionable age etc.).
- (6) In this paragraph—
- (a) any reference to a secure tenancy of a flat is a reference to a secure tenancy of a flat whether with or without any yard, garden, garage, outhouses or appurtenances belonging to or usually enjoyed with it; and
- (b) any reference to a flat includes a reference to a unit (other than a flat) which is used as a dwelling.
- (7) In this paragraph—
- (a) “the appropriate time” and “the demised premises” have the same meaning as in Schedule 9; and
- (b) “successor” has the same meaning as in section 88 of the ^{M28}Housing Act 1985.

Marginal Citations

M27 1985 c. 68.

M28 1985 c. 68.

SCHEDULE 11

Section 40.

PROCEDURE WHERE COMPETENT LANDLORD
IS NOT TENANT’S IMMEDIATE LANDLORD

Commencement Information

I10 Sch. 11 wholly in force at 1.11.1993 see s. 188(2) and S.I. 1993/2134, art. 5

Status: Point in time view as at 01/12/1993.

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PART I

PROCEDURE IN RELATION TO TENANT’S NOTICE

Tenant’s notice may be given to any of the other landlords

- 1 The tenant’s notice under section 42 shall be regarded as given to the competent landlord for the purposes of subsection (2)(a) of that section if it is given to any of the other landlords instead; and references in this Chapter to the relevant date shall be construed accordingly.

Tenant to give copies of notice

- 2 (1) Where the tenant’s notice is given to the competent landlord, the tenant shall give a copy of the notice to every person known or believed by him to be one of the other landlords.
- (2) Where the tenant’s notice is, in accordance with paragraph 1, given to one of the other landlords, the tenant shall give a copy of the notice to every person (apart from the recipient of the notice) known or believed by the tenant to be either the competent landlord or one of the other landlords.
- (3) The tenant’s notice shall state whether copies are being given in accordance with this paragraph to anyone other than the recipient and, if so, to whom.

Recipient of notice or copy to give further copies

- 3 (1) Subject to sub-paragraph (2), a recipient of the tenant’s notice or of a copy of it (including a person receiving a copy under this sub-paragraph)—
- (a) shall forthwith give a copy to any person who—
- (i) is known or believed by him to be the competent landlord or one of the other landlords, and
- (ii) is not stated in the recipient’s copy of the notice, or known by him, to have received a copy; and
- (b) if he knows who is, or he believes himself to be, the competent landlord, shall—
- (i) give a notice to the tenant stating who is the person thought by him to be the competent landlord, and
- (ii) give a copy of it to that person (if not himself) and to every person known or believed by him to be one of the other landlords.
- (2) Sub-paragraph (1) does not apply where the recipient is neither the competent landlord nor one of the other landlords.
- (3) Where a person gives any copies of the tenant’s notice in accordance with sub-paragraph (1)(a), he shall—
- (a) supplement the statement under paragraph 2(3) by adding any further persons to whom he is giving copies or who are known by him to have received one; and
- (b) notify the tenant of the persons added by him to that statement.

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Consequences of failure to comply with paragraph 2 or 3

- 4 (1) Where—
- (a) the competent landlord or any of the other landlords does not receive a copy of the tenant's notice before the end of the period specified in it in pursuance of section 42(3)(f), but
 - (b) he was given a notice under section 41 by the tenant and, in response to the notice under that section, notified the tenant of his interest in the tenant's flat, the tenant's notice shall cease to have effect at the end of that period.
- (2) Where—
- (a) sub-paragraph (1) does not apply, but
 - (b) any person fails without reasonable cause to comply with paragraph 2 or 3 above, or is guilty of any unreasonable delay in complying with either of those paragraphs,
- he shall be liable for any loss thereby occasioned to the tenant or to the competent landlord or any of the other landlords.

PART II

**CONDUCT OF PROCEEDINGS BY COMPETENT
LANDLORD ON BEHALF OF OTHER LANDLORDS**

Counter-notice to specify other landlords

- 5 Any counter-notice given to the tenant by the competent landlord must specify the other landlords on whose behalf he is acting.

Acts of competent landlord binding on other landlords

- 6 (1) Without prejudice to the generality of section 40(2)—
- (a) any notice given under this Chapter by the competent landlord to the tenant,
 - (b) any agreement for the purposes of this Chapter between that landlord and the tenant, and
 - (c) any determination of the court or a leasehold valuation tribunal under this Chapter in proceedings between that landlord and the tenant,
- shall be binding on the other landlords and on their interests in the property demised by the tenant's lease or any other property; but in the event of dispute the competent landlord or any of the other landlords may apply to the court for directions as to the manner in which the competent landlord should act in the dispute.
- (2) Subject to paragraph 7(2), the authority given to the competent landlord by section 40(2) shall extend to receiving on behalf of any other landlord any amount payable to that person by virtue of Schedule 13.
- (3) If any of the other landlords cannot be found, or his identity cannot be ascertained, the competent landlord shall apply to the court for directions and the court may make such order as it thinks proper with a view to giving effect to the rights of the tenant and protecting the interests of other persons; but, subject to any such directions, the competent landlord shall proceed as in other cases.

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- (4) The competent landlord, if he acts in good faith and with reasonable care and diligence, shall not be liable to any of the other landlords for any loss or damage caused by any act or omission in the exercise or intended exercise of the authority given to him by section 40(2).

Other landlords acting independently

- 7 (1) Notwithstanding anything in section 40(2), any of the other landlords shall, at any time after the giving by the competent landlord of a counter-notice under section 45 and on giving notice to both the competent landlord and the tenant of his intention to be so represented, be entitled to be separately represented—
- (a) in any legal proceedings in which his title to any property comes in question, or
 - (b) in any legal proceedings relating to the determination of any amount payable to him by virtue of Schedule 13.
- (2) Any of the other landlords may also, on giving notice to the competent landlord and the tenant, require that any amount payable to him by virtue of Schedule 13 shall be paid by the tenant to him, or to a person authorised by him to receive it, instead of to the competent landlord; but if, after being given proper notice of the time and method of completion with the tenant, either—
- (a) he fails to notify the competent landlord of the arrangements made with the tenant to receive payment, or
 - (b) having notified the competent landlord of those arrangements, the arrangements are not duly implemented,
- the competent landlord shall be authorised to receive the payment for him, and the competent landlord’s written receipt for the amount payable shall be a complete discharge to the tenant.

Obligations of other landlords to competent landlord

- 8 (1) It shall be the duty of each of the other landlords (subject to paragraph 7) to give the competent landlord all such information and assistance as he may reasonably require; and, if any of the other landlords fails to comply with this sub-paragraph, that landlord shall indemnify the competent landlord against any liability incurred by him in consequence of the failure.
- (2) Each of the other landlords shall make such contribution as shall be just to costs and expenses which are properly incurred by the competent landlord in pursuance of section 40(2) but are not recoverable or not recovered from the tenant.

Applications made by other landlords under section 47(1)

- 9 (1) The authority given to the competent landlord by section 40(2) shall not extend to the bringing of proceedings under section 47(1) on behalf of any of the other landlords, or preclude any of those landlords from bringing proceedings under that provision on his own behalf as if he were the competent landlord.
- (2) In section 45(2)(c) any reference to the competent landlord shall include a reference—
- (a) to any of the other landlords, or

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(b) to any two or more of the following, namely the competent landlord and the other landlords, acting together;
and in section 47(1) and (2) references to the landlord shall be construed accordingly; but if any of the other landlords intends to make such an application as is mentioned in section 45(2)(c), whether alone or together with any other person or persons, his name shall be stated in the counter-notice.

Deemed surrender and re-grant of leases of other landlords

- 10 (1) Where a lease is executed under section 56 or 93(4) or in pursuance of any order made under this Chapter, then (subject to sub-paragraph (3)) that instrument shall have effect for the creation of the tenant’s new lease of his flat, and for the operation of the rights and obligations conferred and imposed by it, as if there had been a surrender and re-grant of any subsisting lease intermediate between the interest of the competent landlord and the existing lease; and the covenants and other provisions of that instrument shall be framed and take effect accordingly.
- (2) Section 57(2) shall apply to the new lease on the basis that account is to be taken of obligations imposed on any of the other landlords by virtue of that or any superior lease; and section 59(3) shall apply on the basis that the reference there to the tenant’s landlord includes the immediate landlord from whom the new lease will be held and all superior landlords, including any superior to the competent landlord.
- (3) Where a lease of the tenant’s flat superior to the existing lease is vested in the tenant or a trustee for him, the new lease shall include an actual surrender of that superior lease without a re-grant, and it shall accordingly be disregarded for the purposes of the preceding provisions of this paragraph.

Discharge of existing mortgages

- 11 Where by reason of section 58(2) it is necessary to make any payment to discharge the tenant’s flat from a mortgage affecting the interest of any landlord, then if the competent landlord is not the landlord liable or primarily liable in respect of the mortgage, he shall not be required to make that payment otherwise than out of money made available for the purpose by the landlord so liable, and it shall be the duty of that landlord to provide for the mortgage being discharged.

SCHEDULE 12

Section 42.

THE TENANT’S NOTICE: SUPPLEMENTARY PROVISIONS

Commencement Information

I11 Sch. 12 wholly in force at 1.11.1993 see s. 188(2) and S.I. 1993/2134, art. 5

Status: Point in time view as at 01/12/1993.

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PART I

EFFECT OF TENANT’S NOTICE ON OTHER NOTICES, FORFEITURES ETC.

Prior notice by tenant terminating lease

- 1 A notice given by a qualifying tenant of a flat under section 42 shall be of no effect if it is given—
- (a) after the tenant has given notice terminating the lease of the flat (other than a notice that has been superseded by the grant, express or implied, of a new tenancy); or
 - (b) during the subsistence of an agreement for the grant to the tenant of a future tenancy of the flat, where the agreement is one to which paragraph 17 of Schedule 10 to the ^{M29}Local Government and Housing Act 1989 applies.

Marginal Citations

M29 1989 c. 42.

Prior notice by landlord terminating lease

- 2 (1) Subject to sub-paragraph (2), a notice given by a qualifying tenant of a flat under section 42 shall be of no effect if it is given more than two months after a landlord’s notice terminating the tenant’s lease of the flat has been given under section 4 of the ^{M30}Landlord and Tenant Act 1954 or served under paragraph 4(1) of Schedule 10 to the Local Government and Housing Act 1989 (whether or not the notice has effect to terminate the lease).
- (2) Sub-paragraph (1) does not apply where the landlord gives his written consent to a notice being given under section 42 after the end of those two months.
- (3) Where in the case of a qualifying tenant of a flat who gives a notice under section 42—
- (a) any such landlord’s notice is given or served as mentioned in sub-paragraph (1), but
 - (b) that notice was not given or served more than two months before the date on which the notice under section 42 is given to the landlord,
- the landlord’s notice shall cease to have effect on that date.
- (4) If—
- (a) any such landlord’s notice ceases to have effect by virtue of sub-paragraph (3), but
 - (b) the claim made by the tenant by the giving of his notice under section 42 is not effective,
- then sub-paragraph (5) shall apply to any landlord’s notice terminating the tenant’s lease of the flat which—
- (i) is given under section 4 of the ^{M31}Landlord and Tenant Act 1954 or served under paragraph 4(1) of Schedule 10 to the ^{M32}Local Government and Housing Act 1989, and
 - (ii) is so given or served within one month after the expiry of the period of currency of that claim.

Status: Point in time view as at 01/12/1993.

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- (5) Where this sub-paragraph applies to a landlord’s notice, the earliest date which may be specified in the notice as the date of termination shall be—
- (a) in the case of a notice given under section 4 of that Act of 1954—
 - (i) the date of termination specified in the previous notice, or
 - (ii) the date of expiry of the period of three months beginning with the date of the giving of the new notice,whichever is the later; or
 - (b) in the case of a notice served under paragraph 4(1) of Schedule 10 to that Act of 1989—
 - (i) the date of termination specified in the previous notice, or
 - (ii) the date of expiry of the period of four months beginning with the date of service of the new notice,whichever is the later.
- (6) Where—
- (a) by virtue of sub-paragraph (5) a landlord’s notice specifies as the date of termination of a lease a date earlier than six months after the date of the giving of the notice, and
 - (b) the notice proposes a statutory tenancy,
- section 7(2) of the Landlord and Tenant Act 1954 shall apply in relation to the notice with the substitution, for references to the period of two months ending with the date of termination specified in the notice and the beginning of that period, of references to the period of three months beginning with the date of the giving of the notice and the end of that period.

Marginal Citations

M30 1954 c. 56.

M31 1954 c. 56.

M32 1989 c. 42.

Orders for possession and pending proceedings for forfeiture etc.

- 3
- (1) A notice given by a qualifying tenant of a flat under section 42 shall be of no effect if at the time when it is given he is obliged to give up possession of his flat in pursuance of an order of a court or will be so obliged at a date specified in such an order.
 - (2) Except with the leave of the court, a qualifying tenant of a flat shall not give a notice under section 42 at a time when any proceedings are pending to enforce a right of re-entry or forfeiture terminating his lease of the flat.
 - (3) Leave shall only be granted under sub-paragraph (2) if the court is satisfied that the tenant does not wish to give such a notice solely or mainly for the purpose of avoiding the consequences of the breach of the terms of his lease in respect of which proceedings are pending.
 - (4) If—
 - (a) leave is so granted, and
 - (b) the tenant by such a notice makes a claim to acquire a new lease of his flat,

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the tenant’s lease shall be deemed for the purposes of the claim to be a subsisting lease despite the existence of those proceedings and any order made afterwards in those proceedings; and, if the claim is effective, the court in which those proceedings were brought may set aside or vary any such order to such extent and on such terms as appear to that court to be appropriate.

Notice terminating lease given by tenant or landlord during currency of claim

- 4 Where by a notice given under section 42 a tenant makes a claim to acquire a new lease of a flat, any notice terminating the tenant’s lease of the flat, whether it is—
- (a) a notice given by the tenant, or
 - (b) a landlord’s notice given under section 4 of the ^{M33}Landlord and Tenant Act 1954 or served under paragraph 4(1) of Schedule 10 to the ^{M34}Local Government and Housing Act 1989,
- shall be of no effect if it is given or served during the currency of the claim.

Marginal Citations

M33 1954 c. 56.

M34 1989 c. 42.

Tenant’s notice operates to prevent termination of lease

- 5 (1) Where by a notice under section 42 a tenant makes a claim to acquire a new lease of a flat, then during the currency of the claim and for three months thereafter the lease of the flat shall not terminate—
- (a) by effluxion of time, or
 - (b) in pursuance of a notice to quit given by the immediate landlord of the tenant, or
 - (c) by the termination of a superior lease;
- but if the claim is not effective, and but for this sub-paragraph the lease would have so terminated before the end of those three months, the lease shall so terminate at the end of those three months.
- (2) Sub-paragraph (1) shall not be taken to prevent an earlier termination of the lease in any manner not mentioned in that sub-paragraph, and shall not affect—
- (a) the power under section 146(4) of the ^{M35}Law of Property Act 1925 (relief against forfeiture of leases) to grant a tenant relief against the termination of a superior lease, or
 - (b) any right of the tenant to relief under section 16(2) of the Landlord and Tenant Act 1954 (relief where landlord proceeding to enforce covenants) or under paragraph 9 of Schedule 5 to that Act (relief in proceedings brought by superior landlord).

Marginal Citations

M35 1925 c. 20.

Status: Point in time view as at 01/12/1993.

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Restriction on proceedings to enforce right of re-entry or forfeiture

- 6 Where by a notice under section 42 a tenant makes a claim to acquire a new lease of a flat, then during the currency of the claim—
- (a) no proceedings to enforce any right of re-entry or forfeiture terminating the lease of the flat shall be brought in any court without the leave of that court, and
 - (b) leave shall only be granted if the court is satisfied that the notice was given solely or mainly for the purpose of avoiding the consequences of the breach of the terms of the tenant’s lease in respect of which proceedings are proposed to be brought;
- but where leave is granted, the notice shall cease to have effect.

Effect of notice under section 16(2) of Landlord and Tenant Act 1954 on tenant’s notice

- 7 (1) A tenant who, in proceedings to enforce a right of re-entry or forfeiture or a right to damages in respect of a failure to comply with any terms of his lease, applies for relief under section 16 of the ^{M36}Landlord and Tenant Act 1954 is not thereby precluded from making a claim to acquire a new lease under this Chapter; but if he gives notice under section 16(2) of that Act (under which the tenant is relieved from any order for recovery of possession or for payment of damages, but the tenancy is cut short), any notice given by him under section 42 with respect to property comprised in his lease shall be of no effect or, if already given, shall cease to have effect.
- (2) Sub-paragraph (1) shall apply in relation to proceedings relating to a superior tenancy with the substitution for the references to section 16 and to section 16(2) of the Landlord and Tenant Act 1954 of references to paragraph 9 and to paragraph 9(2) of Schedule 5 to that Act.

Marginal Citations

M36 1954 c. 56.

Interpretation

- 8 (1) For the purposes of this Part of this Schedule—
- (a) references to a notice under section 42 include, in so far as the context permits, references to a notice purporting to be given under that section (whether by a qualifying tenant or not), and references to the tenant by whom a notice is given shall be construed accordingly;
 - (b) references to a claim being effective are references to a new lease being acquired in pursuance of the claim; and
 - (c) references to the currency of a claim are—
 - (i) where the claim is made by a valid notice under section 42, references to the period during which the notice continues in force in accordance with subsection (8) of that section, or
 - (ii) where the claim is made by a notice which is not a valid notice under section 42, references to the period beginning with the giving of the notice and ending with the time when the notice is set aside by the court or is withdrawn or when it would (if valid) cease to have effect or be deemed to have been withdrawn.

Status: Point in time view as at 01/12/1993.

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- (2) For the purposes of sub-paragraph (1)(c) the date when a notice is set aside, or would (if valid) cease to have effect, in consequence of an order of a court shall be taken to be the date when the order becomes final.
- (3) The references in this Schedule—
- (a) to section 16 of the Landlord and Tenant Act 1954 and subsection (2) of that section, and
 - (b) to paragraph 9 of Schedule 5 to that Act and sub-paragraph (2) of that paragraph,
- include references to those provisions as they apply in relation to Schedule 10 to the ^{M37}Local Government and Housing Act 1989 (security of tenure on ending of long residential tenancies).

Marginal Citations

M37 1989 c. 42.

PART II

OTHER PROVISIONS

- 9 (1) The tenant's notice shall not be invalidated by any inaccuracy in any of the particulars required by section 42(3) or by any misdescription of any of the property to which the claim extends.
- (2) Where the tenant's notice—
- (a) specifies any property which he is not entitled to have demised to him under a new lease granted in pursuance of this Chapter, or
 - (b) fails to specify any property which he is entitled to have so demised to him,
- the notice may, with the leave of the court and on such terms as the court may think fit, be amended so as to exclude or include the property in question.

SCHEDULE 13

Section 56.

PREMIUM AND OTHER AMOUNTS PAYABLE
BY TENANT ON GRANT OF NEW LEASE

Commencement Information

I12 Sch. 13 wholly in force at 1.11.1993 see s. 188(2) and S.I. 1993/2134, art. 5

Status: Point in time view as at 01/12/1993.

Changes to legislation: Leasehold Reform, Housing and Urban Development Act 1993 is up to date with all changes known to be in force on or before 25 June 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)

PART I

GENERAL

- 1 In this Schedule—
- “intermediate leasehold interest” means the interest of any person falling within section 40(4)(c), to the extent that it is an interest in the tenant’s flat subsisting immediately before the grant of the new lease;
- “the valuation date” means the date when all of the terms of acquisition (apart from those relating to the premium and any other amounts payable by virtue of this Schedule in connection with the grant of the new lease) have been determined either by agreement or by a leasehold valuation tribunal under this Chapter.

PART II

PREMIUM PAYABLE IN RESPECT OF GRANT OF NEW LEASE

Premium payable by tenant

- 2 The premium payable by the tenant in respect of the grant of the new lease shall be the aggregate of—
- the diminution in value of the landlord’s interest in the tenant’s flat as determined in accordance with paragraph 3,
 - the landlord’s share of the marriage value as determined in accordance with paragraph 4, and
 - any amount of compensation payable to the landlord under paragraph 5.

Diminution in value of landlord’s interest

- 3 (1) The diminution in value of the landlord’s interest is the difference between—
- the value of the landlord’s interest in the tenant’s flat prior to the grant of the new lease; and
 - the value of his interest in the flat once the new lease is granted.
- (2) Subject to the provisions of this paragraph, the value of any such interest of the landlord as is mentioned in sub-paragraph (1)(a) or (b) is the amount which at the valuation date that interest might be expected to realise if sold on the open market by a willing seller (with the tenant not buying or seeking to buy) on the following assumptions—
- on the assumption that the vendor is selling for an estate in fee simple or (as the case may be) such other interest as is held by the landlord, subject to the relevant lease and any intermediate leasehold interests;
 - on the assumption that Chapter I and this Chapter confer no right to acquire any interest in any premises containing the tenant’s flat or to acquire any new lease;

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- (c) on the assumption that any increase in the value of the flat which is attributable to an improvement carried out at his own expense by the tenant or by any predecessor in title is to be disregarded; and
 - (d) on the assumption that (subject to paragraph (b)) the vendor is selling with and subject to the rights and burdens with and subject to which the relevant lease has effect or (as the case may be) is to be granted.
- (3) In sub-paragraph (2) “the relevant lease” means either the tenant’s existing lease or the new lease, depending on whether the valuation is for the purposes of paragraph (a) or paragraph (b) of sub-paragraph (1).
- (4) It is hereby declared that the fact that sub-paragraph (2) requires assumptions to be made as to the matters specified in paragraphs (a) to (d) of that sub-paragraph does not preclude the making of assumptions as to other matters where those assumptions are appropriate for determining the amount which at the valuation date any such interest of the landlord as is mentioned in sub-paragraph (1)(a) or (b) might be expected to realise if sold as mentioned in sub-paragraph (2).
- (5) In determining any such amount there shall be made such deduction (if any) in respect of any defect in title as on a sale of that interest on the open market might be expected to be allowed between a willing seller and a willing buyer.
- (6) The value of any such interest of the landlord as is mentioned in sub-paragraph (1) (a) or (b) shall not be increased by reason of—
- (a) any transaction which—
 - (i) is entered into on or after the date of the passing of this Act (otherwise than in pursuance of a contract entered into before that date), and
 - (ii) involves the creation or transfer of an interest superior to (whether or not preceding) any interest held by the tenant; or
 - (b) any alteration on or after that date of the terms on which any such superior interest is held.

Landlord’s share of marriage value

- 4 (1) The marriage value is the amount referred to in sub-paragraph (2), and the landlord’s share of the marriage value is—
- (a) such proportion of that amount as is determined by agreement between the landlord and the tenant or, in default of agreement, as is determined by a leasehold valuation tribunal to be the proportion which in its opinion would have been determined by an agreement made at the valuation date between the parties on a sale on the open market by a willing seller, or
 - (b) 50 per cent. of that amount,
- whichever is the greater.
- (2) The marriage value is the difference between the following amounts, namely—
- (a) the aggregate of—
 - (i) the value of the interest of the tenant under his existing lease,
 - (ii) the value of the landlord’s interest in the tenant’s flat prior to the grant of the new lease, and

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- (iii) the values prior to the grant of that lease of all intermediate leasehold interests (if any); and
 - (b) the aggregate of—
 - (i) the value of the interest to be held by the tenant under the new lease,
 - (ii) the value of the landlord's interest in the tenant's flat once the new lease is granted, and
 - (iii) the values of all intermediate leasehold interests (if any) once that lease is granted.
- (3) For the purposes of sub-paragraph (2)—
 - (a) the value of any interest of the tenant shall be determined as at the valuation date;
 - (b) the value of any such interest of the landlord as is mentioned in paragraph (a) or paragraph (b) of that sub-paragraph is the amount determined for the purposes of paragraph 3(1)(a) or paragraph 3(1)(b) (as the case may be); and
 - (c) the value of any intermediate leasehold interest shall be determined in accordance with paragraph 8, and shall be so determined as at the valuation date.

VALID FROM 24/07/1996

- ^{F15}4A (1) Subject to the provisions of this paragraph, the value of the interest of the tenant under the existing lease is the amount which at the valuation date that interest might be expected to realise if sold on the open market by a willing seller (with neither the landlord nor any owner of an intermediate leasehold interest buying or seeking to buy) on the following assumptions—
- (a) on the assumption that the vendor is selling such interest as is held by the tenant subject to any interest inferior to the interest of the tenant;
 - (b) on the assumption that Chapter I and this Chapter confer no right to acquire any interest in any premises containing the tenant's flat or to acquire any new lease;
 - (c) on the assumption that any increase in the value of the flat which is attributable to an improvement carried out at his own expense by the tenant or by any predecessor in title is to be disregarded; and
 - (d) on the assumption that (subject to paragraph (b)) the vendor is selling with and subject to the rights and burdens with and subject to which any interest inferior to the existing lease of the tenant has effect.
- (2) It is hereby declared that the fact that sub-paragraph (1) requires assumptions to be made in relation to particular matters does not preclude the making of assumptions as to other matters where those assumptions are appropriate for determining the amount which at the valuation date the interest of the tenant under his existing lease might be expected to realise if sold as mentioned in that sub-paragraph.
- (3) In determining any such amount there shall be made such deduction (if any) in respect of any defect in title as on a sale of that interest on the open market might be expected to be allowed between a willing seller and a willing buyer.
- (4) Subject to sub-paragraph (5), the value of the interest of the tenant under his existing lease shall not be increased by reason of—

Status: Point in time view as at 01/12/1993.

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- (a) any transaction which—
 - (i) is entered into after 19th January 1996, and
 - (ii) involves the creation or transfer of an interest inferior to the tenant's existing lease; or
 - (b) any alteration after that date of the terms on which any such inferior interest is held.
- (5) Sub-paragraph (4) shall not apply to any transaction which falls within paragraph (a) of that sub-paragraph if—
- (a) the transaction is entered into in pursuance of a contract entered into on or before the date mentioned in that paragraph; and
 - (b) the amount of the premium payable by the tenant in respect of the grant of the new lease was determined on or before that date either by agreement or by a leasehold valuation tribunal under this Chapter.]

Textual Amendments

F15 Sch. 13 para. 4A inserted (24.7.1996) by 1996 c. 52, ss. 110(4)(5), 232(1)

VALID FROM 24/07/1996

- ^{F16}4B (1) Subject to the provisions of this paragraph, the value of the interest to be held by the tenant under the new lease is the amount which at the valuation date that interest (assuming it to have been granted to him at that date) might be expected to realise if sold on the open market by a willing seller (with the owner of any interest superior to the interest of the tenant not buying or seeking to buy) on the following assumptions—
- (a) on the assumption that the vendor is selling such interest as is to be held by the tenant under the new lease subject to the inferior interests to which the tenant's existing lease is subject at the valuation date;
 - (b) on the assumption that Chapter I and this Chapter confer no right to acquire any interest in any premises containing the tenant's flat or to acquire any new lease;
 - (c) on the assumption that there is to be disregarded any increase in the value of the flat which would fall to be disregarded under paragraph (c) of sub-paragraph (1) of paragraph 4A in valuing in accordance with that sub-paragraph the interest of the tenant under his existing lease; and
 - (d) on the assumption that (subject to paragraph (b)) the vendor is selling with and subject to the rights and burdens with and subject to which any interest inferior to the tenant's existing lease at the valuation date then has effect.
- (2) It is hereby declared that the fact that sub-paragraph (1) requires assumptions to be made in relation to particular matters does not preclude the making of assumptions as to other matters where those assumptions are appropriate for determining the amount which at the valuation date the interest to be held by the tenant under the new lease might be expected to realise if sold as mentioned in that sub-paragraph.

Status: Point in time view as at 01/12/1993.

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- (3) In determining any such amount there shall be made such deduction (if any) in respect of any defect in title as on a sale of that interest on the open market might be expected to be allowed between a willing seller and a willing buyer.
- (4) Subject to sub-paragraph (5), the value of the interest to be held by the tenant under the new lease shall not be decreased by reason of—
 - (a) any transaction which—
 - (i) is entered into after 19th January 1996, and
 - (ii) involves the creation or transfer of an interest inferior to the tenant's existing lease; or
 - (b) any alteration after that date of the terms on which any such inferior interest is held.
- (5) Sub-paragraph (4) shall not apply to any transaction which falls within paragraph (a) of that sub-paragraph if—
 - (a) the transaction is entered into in pursuance of a contract entered into on or before the date mentioned in that paragraph; and
 - (b) the amount of the premium payable by the tenant in respect of the grant of the new lease was determined on or before that date either by agreement or by a leasehold valuation tribunal under this Chapter.

Textual Amendments

F16 Sch. 13 para. 4B inserted (24.7.1996) by 1996 c. 52, ss. 110(4)(5), 232(1)

Compensation for loss arising out of grant of new lease

- 5 (1) Where the landlord will suffer any loss or damage to which this paragraph applies, there shall be payable to him such amount as is reasonable to compensate him for that loss or damage.
- (2) This paragraph applies to—
 - (a) any diminution in value of any interest of the landlord in any property other than the tenant's flat which results from the grant to the tenant of the new lease; and
 - (b) any other loss or damage which results therefrom to the extent that it is referable to the landlord's ownership of any such interest.
- (3) Without prejudice to the generality of paragraph (b) of sub-paragraph (2), the kinds of loss falling within that paragraph include loss of development value in relation to the tenant's flat to the extent that it is referable as mentioned in that paragraph.
- (4) In sub-paragraph (3) "development value", in relation to the tenant's flat, means any increase in the value of the landlord's interest in the flat which is attributable to the possibility of demolishing, reconstructing, or carrying out substantial works of construction affecting, the flat (whether together with any other premises or otherwise).

Status: Point in time view as at 01/12/1993.

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PART III

AMOUNTS PAYABLE TO OWNERS OF INTERMEDIATE LEASEHOLD INTERESTS

Amount payable to owner of intermediate interest

- 6 In connection with the grant of the new lease to the tenant there shall be payable by the tenant to the owner of any intermediate leasehold interest an amount which is the aggregate of—
- (a) the diminution in value of that interest as determined in accordance with paragraph 7; and
 - (b) any amount of compensation payable to him under paragraph 9.

Diminution in value of intermediate interest

- 7 (1) The diminution in value of any intermediate leasehold interest is the difference between—
- (a) the value of that interest prior to the grant of the new lease; and
 - (b) the value of that interest once the new lease is granted.
- (2) Each of those values shall be determined, as at the valuation date, in accordance with paragraph 8.

Value of intermediate interests

- 8 (1) Subject to sub-paragraph (2), paragraph 3(2) to (6) shall apply for determining the value of any intermediate leasehold interest for the purposes of any provision of this Schedule with such modifications as are appropriate to relate those provisions of paragraph 3 to a sale of the interest in question subject to the tenant's lease for the time being and to any leases intermediate between the interest in question and that lease.
- (2) The value of an intermediate leasehold interest which is the interest of the tenant under a minor intermediate lease shall be calculated by applying the formula set out in sub-paragraph (6) instead of in accordance with sub-paragraph (1).
- (3) "A minor intermediate lease" means a lease complying with the following requirements, namely—
- (a) it must have an expectation of possession of not more than one month, and
 - (b) the profit rent in respect of the lease must be not more than £5 per year.
- (4) "Profit rent" means an amount equal to that of the rent payable under the lease on which the minor intermediate lease is in immediate reversion, less that of the rent payable under the minor intermediate lease.
- (5) Where the minor intermediate lease or that on which it is in immediate reversion comprises property other than the tenant's flat, then in sub-paragraph (4) the reference to the rent payable under it means so much of that rent as is apportioned to that flat.
- (6) The formula is—

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$$P = \pounds \frac{R}{Y} - \frac{R}{Y(1+Y)^n}$$

where—

P = the price payable;

R = the profit rent;

Y = the yield (expressed as a decimal fraction) from 2½ per cent. Consolidated Stock;

n = the period, expressed in years (taking any part of a year as a whole year), of the remainder of the term of the minor intermediate lease as at the valuation date.

- (7) In calculating the yield from 2½ per cent. Consolidated Stock, the price of that stock shall be taken to be the middle market price at the close of business on the last trading day in the week before the valuation date.
- (8) For the purposes of this paragraph the expectation of possession carried by a lease is the expectation which it carries at the valuation date of possession after the tenant's lease, on the basis that—
- (subject to sub-paragraph (9)) the tenant's lease terminates at the valuation date if its term date fell before then, or else it terminates on its term date; and
 - any other lease terminates on its term date.
- (9) In a case where before the relevant date for the purposes of this Chapter the immediate landlord of the tenant had given notice to quit terminating the tenant's lease on a date earlier than that date, the date specified in the notice to quit shall be substituted for the date specified in sub-paragraph (8)(a) above.

Compensation for loss arising out of grant of new lease

- 9 Paragraph 5 shall apply in relation to the owner of any intermediate leasehold interest as it applies in relation to the landlord.

Owners of intermediate interests entitled to part of marriage value

- 10 (1) This paragraph applies in a case where—
- the premium payable by the tenant in respect of the grant of the new lease includes an amount in respect of the landlord's share of the marriage value, and
 - there are any intermediate leasehold interests.
- (2) The amount payable to the landlord in respect of his share of the marriage value shall be divided between the landlord and the owners of any such intermediate interests in proportion to the amounts by which the values of their respective interests in the flat will be diminished in consequence of the grant of the new lease.
- (3) For the purposes of sub-paragraph (2)—
- the amount by which the value of the landlord's interest in the flat will be so diminished is the diminution in value of that interest as determined for the purposes of paragraph 2(a); and

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- (b) the amount by which the value of any intermediate leasehold interest will be so diminished is the diminution in value of that interest as determined for the purposes of paragraph 6(a).
- (4) Where the owner of any intermediate leasehold interest is entitled in accordance with sub-paragraph (2) to any part of the amount payable to the landlord in respect of the landlord's share of the marriage value, the amount to which he is so entitled shall be payable to him by the landlord.

SCHEDULE 14

Section 61.

PROVISIONS SUPPLEMENTARY TO SECTION 61

Commencement Information

I13 Sch. 14 wholly in force at 1.11.1993 see s. 188(2) and S.I. 1993/2134, art. 5

- 1 (1) This Schedule has effect where a tenant of a flat is entitled to be paid compensation under section 61, or would be so entitled on the landlord obtaining an order for possession, or where an application for such an order is dismissed or withdrawn.
- (2) In this Schedule—
 - “application for possession” means a landlord’s application under section 61;
 - “the new lease” has the same meaning as in that section; and
 - “order for possession” means an order made under that section;
 and (except in the case of the reference in paragraph 5(1)(b) to the flat as a dwelling) references to the flat held by the tenant under the new lease shall be construed in accordance with subsection (5) of that section.
- 2 (1) Where an order for possession is made—
 - (a) the new lease shall determine, and
 - (b) the compensation payable to the tenant by virtue of the order shall become payable,
 on such date as may, when the amount of compensation has been determined either by agreement between the landlord and the tenant or by a leasehold valuation tribunal, be fixed by order of the court made on the application of either the landlord or the tenant.
- (2) Where the application for possession was made by virtue of section 61(2)(a), then—
 - (a) (unless paragraph (b) below applies) an order of the court under this paragraph shall not fix a date earlier than the term date of the lease in relation to which the right to acquire a new lease was exercised;
 - (b) in a case where section 61(2)(a) applies in accordance with section 61(3), an order of the court under this paragraph shall not fix a date earlier than the term date of the lease in relation to which that right was first exercised.
- (3) In fixing the date referred to in sub-paragraph (1) the court shall have regard to the conduct of the parties and to the extent to which the landlord has made reasonable preparations for proceeding with the redevelopment (including the obtaining of, or

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preparations relating to the obtaining of, any requisite permission or consent, whether from any authority whose permission or consent is required under any enactment or from the owner of an interest in any property).

- (4) The court may by order direct that the whole or part of the compensation payable to the tenant shall be paid into court, if the court thinks it expedient to do so for the purpose of ensuring that the sum paid is available for meeting any mortgage on the tenant's interest in the flat in question, or for the purpose of division, or for any other purpose.
- 3 (1) On the termination of a lease under an order for possession there shall terminate also any immediate or derivative sub-lease, and the tenant shall be bound to give up possession of the flat in question to the landlord except in so far as he is precluded from doing so by the rights of other persons to retain possession under or by virtue of any enactment.
- (2) Where a sub-lease of property comprised in the lease has been created after the date of the application for possession, no person shall in respect of that sub-lease be entitled under any of the following provisions (which relate to retaining possession on the termination of a superior tenancy), namely—
- (a) subsection (2) of section 137 of the ^{M38}Rent Act 1977, or any enactment (including subsection (5) of that section) applying or extending it,
 - (b) subsection (2) of section 9 of the ^{M39}Rent (Agriculture) Act 1976 as extended by subsection (5) of that section, or
 - (c) section 18(1) of the ^{M40}Housing Act 1988,
- to retain possession of that property after the termination of the lease under the order for possession.
- (3) In exercising its jurisdiction under section 61 or this Schedule the court shall assume that the landlord, having obtained an order for possession, will not be precluded from obtaining possession by the right of any person to retain possession by virtue of—
- (a) Part VII of the Rent Act 1977 or any enactment applying or extending that Part of that Act,
 - (b) the Rent (Agriculture) Act 1976, or
 - (c) Part I of the Housing Act 1988,
- or otherwise.
- (4) A person in occupation of any property under a sub-lease liable to terminate under sub-paragraph (1) may, with the leave of the court, appear and be heard on any application for possession or any application under paragraph 2.

Marginal Citations

M38 1977 c. 42.

M39 1976 c. 80.

M40 1988 c. 50.

- 4 Where an order has been made by a county court under paragraph 2, that court or another county court shall have jurisdiction to hear and determine any proceedings brought by virtue of the order to recover possession of the property or to recover the compensation.

Status: Point in time view as at 01/12/1993.

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- 5 (1) The amount payable to a tenant, by virtue of an order for possession, by way of compensation for loss of his flat shall be the amount which at the valuation date the new lease, if sold on the open market by a willing seller, might be expected to realise on the following assumptions—
- (a) on the assumption that Chapter I and this Chapter confer no right to acquire any interest in any premises containing the tenant’s flat or to acquire any new lease;
 - (b) on the assumption that the vendor is selling—
 - (i) subject to the rights of any person who will on the termination of the lease be entitled to retain possession as against the landlord, but otherwise with vacant possession, and
 - (ii) subject to any restriction that would be required (in addition to any imposed by the terms of the lease) to limit the uses of the flat to those to which it has been put since the commencement of the lease and to preclude the erection of any new dwelling or any other building not ancillary to the flat as a dwelling; and
 - (c) on the assumption that (subject to paragraphs (a) and (b)) the vendor is selling with and subject to the rights and burdens with and subject to which the flat will be held by the landlord on the termination of the lease.
- (2) It is hereby declared that the fact that sub-paragraph (1) requires assumptions to be made as to the matters specified in paragraphs (a) to (c) of that sub-paragraph does not preclude the making of assumptions as to other matters where those assumptions are appropriate for determining the amount which at the valuation date the new lease might be expected to realise if sold as mentioned in that sub-paragraph.
- (3) In determining any such amount there shall be made such deduction (if any) in respect of any defect in title as on a sale of that interest on the open market might be expected to be allowed between a willing seller and a willing buyer.
- (4) In this paragraph “the valuation date” means the date when the amount of the compensation payable to the tenant is determined as mentioned in paragraph 2(1).
- 6 (1) Part I of the ^{M41}Landlord and Tenant Act 1927 (compensation for improvements on termination of business tenancies) shall not apply on the termination of the new lease or any sub-lease in accordance with this Schedule; and a request for a new tenancy under section 26 of the ^{M42}Landlord and Tenant Act 1954 in respect of the new lease or any sub-lease shall be of no effect if made after the application for possession, or, if already made, shall cease to have effect on the making of that application.
- (2) Where a sub-lease terminating with the new lease in accordance with paragraph 3 is one to which Part II of the Landlord and Tenant Act 1954 applies, the compensation payable to the tenant shall be divided between him and the sub-tenant in such proportions as may be just, regard being had to their respective interests in the flat in question and to any loss arising from the termination of those interests and not incurred by imprudence.
- (3) Where the amount of the compensation payable to the tenant is agreed between him and the landlord without the consent of a sub-tenant entitled under sub-paragraph (2) to a share in the compensation, and is shown by the sub-tenant to be less than might reasonably have been obtained by the tenant, the sub-tenant shall be entitled under sub-paragraph (2) to recover from the tenant such increased share as may be just.

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Marginal Citations

M41 1927 c. 36.

M42 1954 c. 56.

- 7 (1) The landlord shall not be concerned with the application of the amount payable to the tenant by way of compensation under an order for possession, but (subject to any statutory requirements as to payment of capital money arising under a settlement or a disposition on trust for sale and to any order under paragraph 2(4) for payment into court) the written receipt of the tenant shall be a complete discharge for the amount payable.
- (2) The landlord shall be entitled to deduct from the amount so payable to the tenant—
- (a) the amount of any sum recoverable as rent in respect of the flat up to the termination of the new lease; and
 - (b) the amount of any other sums due and payable by the tenant to the landlord under or in respect of the lease or any agreement collateral thereto.
- 8 (1) Where a landlord makes an application for possession, and it is made to appear to the court that in relation to matters arising out of that application (including the giving up of possession of the flat or the payment of compensation) the landlord or the tenant has been guilty of any unreasonable delay or default, the court may—
- (a) by order revoke or vary, and direct repayment of sums paid under, any provision made by a previous order as to payment of the costs of proceedings taken in the court on or with reference to the application; or
 - (b) where costs have not been awarded, award costs.
- (2) Where an application for possession is dismissed or withdrawn, and it is made to appear to the court—
- (a) that the application was not made in good faith, or
 - (b) that the landlord had attempted in any material respect to support by misrepresentation or the concealment of material facts a request to the tenant to deliver up possession without an application for possession,
- the court may order that no further application for possession of the flat made by the landlord shall be entertained if it is made within the period of five years beginning with the date of the order.
- 9 Where—
- (a) the new lease is held on trust for sale, and
 - (b) compensation is paid by the landlord on the termination of the new lease (whether the payment is made in pursuance of an order for possession or in pursuance of an agreement made in conformity with paragraph 5 above without an application having been made under section 61),
- the sum received shall be dealt with as if it were proceeds of sale arising under the trust.
- 10 Where—
- (a) the tenant under the new lease is a university or college to which the ^{M43}Universities and College Estates Act 1925 applies, and

Status: Point in time view as at 01/12/1993.

Changes to legislation: Leasehold Reform, Housing and Urban Development Act 1993 is up to date with all changes known to be in force on or before 25 June 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)

(b) compensation is paid as mentioned in paragraph 9(b) above, the sum received shall be dealt with as if it were an amount payable by way of consideration on a sale effected under that Act.

Marginal Citations

M43 1925 c. 24.

- 11 Where—
- (a) the tenant under the new lease is a capitular body within the meaning of the ^{M44}Cathedrals Measure 1963 and the lease comprises property which forms part of the endowment of a cathedral church, and
- (b) compensation is paid as mentioned in paragraph 9(b) above, the sum received shall be treated as part of that endowment.

Modifications etc. (not altering text)

C1 Sch. 14 para. 11 amended (30.6.1999) by 1999 No. 1, ss. 36(2)(6), 38(2)(3) (with ss. 33, 34, 38(6), 37)

Marginal Citations

M44 1963 No. 2.

- 12 (1) Where—
- (a) the tenant under the new lease is a diocesan board of finance and the lease comprises diocesan glebe land, and
- (b) compensation is paid as mentioned in paragraph 9(b) above, the sum received shall be paid to the Church Commissioners to be applied for purposes for which the proceeds of any 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.
- (2) In this paragraph “diocesan board of finance” and “diocesan glebe land” have the same meaning as in the ^{M45}Endowments and Glebe Measure 1976.

Marginal Citations

M45 1976 No. 4.

SCHEDULE 15

Section 66.

SECTION 9 OF THE LEASEHOLD REFORM ACT 1967, AS AMENDED

Commencement Information

I14 Sch. 15 wholly in force at 1.11.1993 see s. 188(2) and S.I. 1993/2134, art. 5

Status: Point in time view as at 01/12/1993.

Changes to legislation: Leasehold Reform, Housing and Urban Development Act 1993 is up to date with all changes known to be in force on or before 25 June 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)

Purchase price and costs of enfranchisement, and tenant's right to withdraw.

- 9 (1) Subject to subsection (2) below, the price payable for a house and premises on a conveyance under section 8 above shall be the amount which at the relevant time the house and premises, if sold in the open market by a willing seller (with the tenant and members of his family who reside in the house not buying or seeking to buy), might be expected to realise on the following assumptions:—
- (a) on the assumption that the vendor was selling for an estate in fee simple, subject to the tenancy but on the assumption that this Part of this Act conferred no right to acquire the freehold, and if the tenancy has not been extended under this Part of this Act, on the assumption that (subject to the landlord's rights under section 17 below) it was to be so extended;
 - (b) on the assumption that (subject to paragraph (a) above) the vendor was selling subject, in respect of rentcharges to which section 11(2) below applies, to the same annual charge as the conveyance to the tenant is to be subject to, but the purchaser would otherwise be effectively exonerated until the termination of the tenancy from any liability or charge in respect of tenant's incumbrances; and
 - (c) on the assumption that (subject to paragraphs (a) and (b) above) the vendor was selling with and subject to the rights and burdens with and subject to which the conveyance to the tenant is to be made, and in particular with and subject to such permanent or extended rights and burdens as are to be created in order to give effect to section 10 below.

The reference in this subsection to members of the tenant's family shall be construed in accordance with section 7(7) of this Act.

- (1A) Notwithstanding the foregoing subsection, the price payable for a house and premises,—
- (i) the rateable value of which was above £1,000 in Greater London and £500 elsewhere on 31st March 1990, or,
 - (ii) which had no rateable value on that date and R exceeded £16,333 under the formula in section 1(1)(a) above (and section 1(7) above shall apply to that amount as it applies to the amount referred to in subsection (1)(a)(ii) of that section)

shall be the amount which at the relevant time the house and premises, if sold in the open market by a willing seller, might be expected to realise on the following assumptions:—

- (a) on the assumption that the vendor was selling for an estate in fee simple, subject to the tenancy, but on the assumption that this Part of this Act conferred no right to acquire the freehold or an extended lease and, where the tenancy has been extended under this Part of this Act, that the tenancy will terminate on the original term date;
- (b) on the assumption that at the end of the tenancy the tenant has the right to remain in possession of the house and premises—
 - (i) if the tenancy is such a tenancy as is mentioned in subsection (2) or subsection (3) of section 186 of the Local Government and Housing Act 1989, or is a tenancy which is a long tenancy at a low rent for the purposes of Part I of the Landlord and Tenant Act 1954 in respect of which the landlord is not able to serve a notice under section 4 of that Act specifying a date of termination earlier than 15th January

Status: Point in time view as at 01/12/1993.

Changes to legislation: Leasehold Reform, Housing and Urban Development Act 1993 is up to date with all changes known to be in force on or before 25 June 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)

- 1999, under the provisions of Schedule 10 to the Local Government and Housing Act 1989; and
- (ii) in any other case under the provisions of Part I of the Landlord and Tenant Act 1954;
- (c) on the assumption that the tenant has no liability to carry out any repairs, maintenance or redecorations under the terms of the tenancy or Part I of the Landlord and Tenant Act 1954;
- (d) on the assumption that the price be diminished by the extent to which the value of the house and premises has been increased by any improvement carried out by the tenant or his predecessors in title at their own expense;
- (e) on the assumption that (subject to paragraph (a) above) the vendor was selling subject, in respect of rentcharges to which section 11(2) below applies, to the same annual charge as the conveyance to the tenant is to be subject to, but the purchaser would otherwise be effectively exonerated until the termination of the tenancy from any liability or charge in respect of tenant's incumbrances; and
- (f) on the assumption that (subject to paragraphs (a) and (b) above) the vendor was selling with and subject to the rights and burdens with and subject to which the conveyance to the tenant is to be made, and in particular with and subject to such permanent or extended rights and burdens as are to be created in order to give effect to section 10 below.
- (1B) For the purpose of determining whether the rateable value of the house and premises is above £1000 in Greater London, or £500 elsewhere, the rateable value shall be adjusted to take into account any tenant's improvements in accordance with Schedule 8 to the Housing Act 1974.
- (1C) Notwithstanding subsection (1) above, the price payable for a house and premises where the right to acquire the freehold arises by virtue of any one or more of the provisions of sections 1A and 1B above shall be determined in accordance with subsection (1A) above; but in any such case—
- (a) if in determining the price so payable there falls to be taken into account any marriage value arising by virtue of the coalescence of the freehold and leasehold interests, the share of the marriage value to which the tenant is to be regarded as being entitled shall not exceed one-half of it; and
- (b) section 9A below has effect for determining whether any additional amount is payable by way of compensation under that section;
- and in a case where the provision (or one of the provisions) by virtue of which the right to acquire the freehold arises is section 1A(1) above, subsection (1A) above shall apply with the omission of the assumption set out in paragraph (b) of that subsection.
- (2) The price payable for the house and premises shall be subject to such deduction (if any) in respect of any defect in the title to be conveyed to the tenant as on a sale in the open market might be expected to be allowed between a willing seller and a willing buyer.
- (3) On ascertaining the amount payable, or likely to be payable, as the price for a house and premises in accordance with this section (but not more than one month after the amount payable has been determined by agreement or otherwise), the tenant may give written notice to the landlord that he is unable or unwilling to acquire the house and premises at the price he must pay; and thereupon—

Status: Point in time view as at 01/12/1993.

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- (a) the notice under section 8 above of his desire to have the freehold shall cease to have effect, and he shall be liable to make such compensation as may be just to the landlord in respect of the interference (if any) by the notice with the exercise by the landlord of his power to dispose of or deal with the house and premises or any neighbouring property; and
 - (b) any further notice given under that section with respect to the house or any part of it (with or without other property) shall be void if given within the following three years.
- (4) Where a person gives notice of his desire to have the freehold of a house and premises under this Part of this Act, then unless the notice lapses under any provision of this Act excluding his liability, there shall be borne by him (so far as they are incurred in pursuance of the notice) the reasonable costs of or incidental to any of the following matters:—
- (a) any investigation by the landlord of that person's right to acquire the freehold;
 - (b) any conveyance or assurance of the house and premises or any part thereof or of any outstanding estate or interest therein;
 - (c) deducing, evidencing and verifying the title to the house and premises or any estate or interest therein;
 - (d) making out and furnishing such abstracts and copies as the person giving the notice may require;
 - (e) any valuation of the house and premises;
- but so that this subsection shall not apply to any costs if on a sale made voluntarily a stipulation that they were to be borne by the purchaser would be void.
- (5) The landlord's lien (as vendor) on the house and premises for the price payable shall extend—
- (a) to any sums payable by way of rent or recoverable as rent in respect of the house and premises up to the date of the conveyance; and
 - (b) to any sums for which the tenant is liable under subsection (4) above; and
 - (c) to any other sums due and payable by him to the landlord under or in respect of the tenancy or any agreement collateral thereto.

SCHEDULE 16

Section 117(2).

SCHEDULE INSERTED AFTER SCHEDULE 6 TO THE HOUSING ACT 1985

Commencement Information

I15 Sch. 16 wholly in force at 11.10.1993 (subject to the transitional provisions and savings in Sch. 1 to 1993/2134) see s. 188(2) and S.I. 1993/2134, art. 4

Status: Point in time view as at 01/12/1993.

Changes to legislation: Leasehold Reform, Housing and Urban Development Act 1993 is up to date with all changes known to be in force on or before 25 June 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)

“SCHEDULE 6A

REDEMPTION OF LANDLORD'S SHARE

Obligation to redeem landlord's share in certain circumstances

- 1 (1) The conveyance or grant shall contain a covenant binding on the secure tenant and his successors in title to make to the landlord, immediately after—
 - (a) the making of a relevant disposal which is not an excluded disposal, or
 - (b) the expiry of the period of one year beginning with a relevant death,
 (whichever first occurs), a final payment, that is to say, a payment of the amount required to redeem the landlord's share.
- (2) A disposal is an excluded disposal for the purposes of this paragraph if—
 - (a) it is a further conveyance of the freehold or an assignment of the lease and the person or each of the persons to whom it is made is, or is the spouse of, the person or one of the persons by whom it is made;
 - (b) it is a vesting in a person taking under a will or intestacy; or
 - (c) it is a disposal in pursuance of an order under section 24 of the ^{M46}Matrimonial Causes Act 1973 (property adjustment orders in connection with matrimonial proceedings) or section 2 of the ^{M47}Inheritance (Provision for Family and Dependants) Act 1975 (orders as to financial provision to be made from estate), and (in any case) an interest to which this paragraph applies subsists immediately after the disposal.
- (3) In this paragraph “relevant death” means the death of a person who immediately before his death was the person or, as the case may be, the last remaining person entitled to an interest to which this paragraph applies.
- (4) A beneficial interest in the dwelling-house is an interest to which this paragraph applies if the person entitled to it is—
 - (a) the secure tenant or, as the case may be, one of the secure tenants, or
 - (b) a qualifying person.

Right to redeem landlord's share at any time

- 2 (1) The conveyance or grant shall include provision entitling the secure tenant and his successors in title to make a final payment at any time.
- (2) The right shall be exercisable by written notice served on the landlord claiming to make a final payment.
- (3) The notice may be withdrawn at any time by written notice served on the landlord.
- (4) If the final payment is not tendered to the landlord before the end of the period of three months beginning with the time when the value of the dwelling-house is agreed or determined in accordance with paragraph 8, the notice claiming to make a final payment shall be deemed to have been withdrawn.

Value of landlord's share and amount of final payment

- 3 The value of the landlord's share shall be determined by the formula—

Status: Point in time view as at 01/12/1993.

Changes to legislation: Leasehold Reform, Housing and Urban Development Act 1993 is up to date with all changes known to be in force on or before 25 June 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)

and the amount required to redeem that share shall be determined by the formula—

Final discount

- 4 (1) Where a final payment is made by, or by two or more persons who include—
- (a) the secure tenant or, as the case may be, one of the secure tenants, or
 - (b) a qualifying person,
- the person or persons making the payment are entitled, subject to the following provisions of this paragraph and paragraph 5, to a final discount equal to 20 per cent. of the value of the landlord's share.
- (2) Sub-paragraph (1) shall not apply if the final payment is made after the end of the protection period, that is to say, the period of two years beginning with the time when there ceases to be an interest to which this sub-paragraph applies.
- (3) A beneficial interest in the dwelling-house is an interest to which sub-paragraph (2) applies if the person entitled to it is—
- (a) the secure tenant or, as the case may be, one of the secure tenants, or
 - (b) a qualifying spouse.
- (4) The Secretary of State may by order made with the consent of the Treasury provide that the percentage discount shall be such percentage as may be specified in the order.
- (5) An order under this paragraph—
- (a) may make different provision with respect to different cases or descriptions of case, including different provision for different areas,
 - (b) may contain such incidental, supplementary or transitional provisions as appear to the Secretary of State necessary or expedient, and
 - (c) shall be made by statutory instrument and shall not be made unless a draft of the order has been laid before and approved by resolution of each House of Parliament.

Restrictions on and deductions from final discount

- 5 (1) Except where the Secretary of State so determines, a final discount shall not reduce the total purchase price, that is to say, the aggregate of the initial payment, the final payment and any interim payments, below the amount which would be applicable under section 131(1) in respect of the dwelling-house if the relevant time were the time when the value of the dwelling-house is agreed or determined.
- (2) The total discount, that is to say, the aggregate of the initial discount, the final discount and any interim discounts, shall not in any case reduce the total purchase price by more than the sum prescribed for the purposes of section 131(2) at the time when the value of the dwelling-house is agreed or determined.
- (3) If a final payment is made after the end of the first twelve months of the protection period, there shall be deducted from any final discount given by paragraph 4 and the preceding provisions of this paragraph an amount equal to 50 per cent. of that discount.
- (4) There shall be deducted from any final discount given by paragraph 4 and the preceding provisions of this paragraph an amount equal to any previous discount qualifying or, the aggregate of any previous discounts qualifying, under the provisions of section 130.

Status: Point in time view as at 01/12/1993.

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- (5) A determination under this paragraph may make different provision for different cases or descriptions of case, including different provision for different areas.

Right to make interim payment at any time

- 6 (1) The conveyance or grant shall include provision entitling the secure tenant and his successors in title at any time to make to the landlord an interim payment, that is to say, a payment which—
- (a) is less than the amount required to redeem the landlord's share; but
 - (b) is not less than 10 per cent. of the value of the dwelling-house (agreed or determined in accordance with paragraph 8).
- (2) The right shall be exercisable by written notice served on the landlord, claiming to make an interim payment and stating the amount of the interim payment proposed to be made.
- (3) The notice may be withdrawn at any time by written notice served on the landlord.
- (4) If the interim payment is not tendered to the landlord before the end of the period of three months beginning with the time when the value of the dwelling-house is agreed or determined in accordance with paragraph 8, the notice claiming to make an interim payment shall be deemed to have been withdrawn.

Landlord's reduced share and interim discount

- 7 The landlord's share after the making of an interim payment shall be determined by the formula—
- the amount of the interim discount shall be determined by the formula—
- and the amount of any previous discount which will be recovered by virtue of the making of an interim payment shall be determined by the formula—

Value of dwelling-house

- 8 (1) For the purposes of the final payment or any interim payment, the value of a dwelling-house is the amount which for those purposes—
- (a) is agreed at any time between the parties, or
 - (b) in default of such agreement, is determined at any time by an independent valuer,
- as the amount which, in accordance with this paragraph, is to be taken as its value at that time.
- (2) Subject to sub-paragraph (6), that value shall be taken to be the price which the interest of the secure tenant in the dwelling-house would realise if sold on the open market by a willing vendor—
- (a) on the assumption that the liabilities mentioned in sub-paragraph (3) would be discharged by the vendor, and
 - (b) disregarding the matters specified in sub-paragraph (4).
- (3) The liabilities referred to in sub-paragraph (2)(a) are—
- (a) any mortgages of the interest of the secure tenant,
 - (b) the liability under the covenant required by paragraph 1, and

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- (c) any liability under the covenant required by section 155(3) (repayment of discount on early disposal).
- (4) The matters to be disregarded in pursuance of sub-paragraph (2)(b) are—
 - (a) any interests or rights created over the dwelling-house by the secure tenant,
 - (b) any improvements made by the secure tenant or any of the persons mentioned in section 127(4) (certain predecessors as secure tenant), and
 - (c) any failure by the secure tenant or any of those persons—
 - (i) where the dwelling-house is a house, to keep the dwelling-house in good repair (including decorative repair);
 - (ii) where the dwelling-house is a flat, to keep the interior of the dwelling-house in such repair.
- (5) Sub-paragraph (6) applies where, at the time when the value of the dwelling-house is agreed or determined, the dwelling-house—
 - (a) has been destroyed or damaged by fire, tempest, flood or any other cause against the risk of which it is normal practice to insure, and
 - (b) has not been fully rebuilt or reinstated.
- (6) That value shall be taken to include the value of such of the following as are applicable, namely—
 - (a) any sums paid or falling to be paid to the secure tenant under a relevant policy in so far as they exceed the cost of any rebuilding or reinstatement which has been carried out;
 - (b) any rights of the secure tenant under the covenant implied by paragraph 14(3) of Schedule 6 (covenant to rebuild or reinstate); and
 - (c) any rights of the secure tenant under the covenant implied by paragraph 15(4) of that Schedule (covenant to use best endeavours to secure rebuilding or reinstatement).
- (7) In sub-paragraph (6) “relevant policy” means a policy insuring the secure tenant against the risk of fire, tempest or flood or any other risk against which it is normal practice to insure.
- (8) References in this paragraph to the secure tenant include references to his successors in title.

Costs of independent valuation

- 9 The conveyance or grant shall include provision requiring any sums falling to be paid to an independent valuer (whether by way of fees or expenses or otherwise) to be paid by the secure tenant or his successors in title.

No charges to be made by landlord

- 10 A provision of the conveyance or grant is void in so far as it purports to enable the landlord to charge the tenant or his successors in title a sum in respect of or in connection with the making of a final or interim payment.

Other covenants and provisions

- 11 Subject to the provisions of this Schedule, the conveyance or grant may include such covenants and provisions as are reasonable in the circumstances.

Status: Point in time view as at 01/12/1993.

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Interpretation

12 (1) In this Schedule—

“independent valuer” means an independent valuer appointed in pursuance of provisions in that behalf contained in the conveyance or grant;
 “protection period” has the meaning given by paragraph 4(2);
 “qualifying person” means a qualifying spouse or a qualifying resident.

(2) A person is a qualifying spouse for the purposes of this Schedule if—

- (a) he is entitled to a beneficial interest in the dwelling-house immediately after the time when there ceases to be an interest to which this paragraph applies;
- (b) he is occupying the dwelling-house as his only or principal home immediately before that time; and
- (c) he is the spouse or surviving spouse of the person who immediately before that time was entitled to the interest to which this paragraph applies or, as the case may be, the last remaining such interest, or is the surviving spouse of a person who immediately before his death was entitled to such an interest;

and any reference in this paragraph to the spouse or surviving spouse of a person includes a reference to a former spouse or surviving former spouse of that person.

(3) A person is a qualifying resident for the purposes of this Schedule if—

- (a) he is entitled to a beneficial interest in the dwelling-house immediately after the time when there ceases to be an interest to which this paragraph applies;
- (b) he is occupying the dwelling-house as his only or principal home immediately before that time;
- (c) he has resided throughout the period of twelve months ending with that time—
 - (i) with the person who immediately before that time was entitled to the interest to which this paragraph applies or, as the case may be, the last remaining such interest, or
 - (ii) with two or more persons in succession each of whom was throughout the period of residence with him entitled to such an interest; and
- (d) he is not a qualifying spouse.

(4) A beneficial interest in the dwelling-house is an interest to which this paragraph applies if the person entitled to it is the secure tenant or, as the case may be, one of the secure tenants.

(5) References in this Schedule to the secure tenant are references to the secure tenant or tenants to whom the conveyance or grant is made and references to the secure tenant or, as the case may be, one of the secure tenants shall be construed accordingly.

(6) References in this Schedule to the secure tenant’s successors in title do not include references to any person entitled to a legal charge having priority to the mortgage required by section 151B (mortgage for securing redemption of landlord’s share) or any person whose title derives from such a charge.”

Marginal Citations

M46 1973 c. 18.

M47 1975 c. 63.

Status: Point in time view as at 01/12/1993.

Changes to legislation: Leasehold Reform, Housing and Urban Development Act 1993 is up to date with all changes known to be in force on or before 25 June 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)

SCHEDULE 17

Section 158(2).

CONSTITUTION OF THE AGENCY

Commencement Information

I16 Sch. 17 wholly in force at 10.11.1993 see s. 188(2) and S.I. 1993/2762, art. 3

Membership

- 1 (1) The Agency shall consist of such number of members (being not less than six) as the Secretary of State may from time to time appoint.
- (2) The Secretary of State shall appoint one of the members to be chairman and may, if he thinks fit, appoint another of them to be deputy chairman.
- (3) Subject to the provisions of this paragraph, a member of the Agency shall hold and vacate office in accordance with the terms of his appointment.
- (4) A person who ceases to be a member of the Agency shall be eligible for re-appointment.
- (5) A member of the Agency may resign his office by notice in writing to the Secretary of State.
- (6) The Secretary of State may remove a member of the Agency from office if he is satisfied that he—
 - (a) is unable or unfit to carry out the functions of a member;
 - (b) has not complied with the terms of his appointment; or
 - (c) has become bankrupt or made an arrangement with his creditors.
- (7) A person shall cease to be chairman or deputy chairman of the Agency—
 - (a) if he resigns as such by notice in writing to the Secretary of State; or
 - (b) if he ceases to be a member of the Agency.

Remuneration, pensions etc.

- 2 (1) The Agency shall pay to its members such remuneration, and such allowances, as the Secretary of State may determine.
- (2) The Agency may—
 - (a) pay such pensions, allowances or gratuities to or in respect of any persons who have been or are its members as the Secretary of State may determine;
 - (b) make such payments as the Secretary of State may determine towards provision for the payment of pensions, allowances or gratuities to or in respect of any such persons.
- (3) If, when a person ceases to be a member of the Agency, the Secretary of State determines that there are special circumstances which make it right that he should receive compensation, the Agency shall pay to him a sum by way of compensation of such amount as the Secretary of State may determine.

Status: Point in time view as at 01/12/1993.

Changes to legislation: *Leasehold Reform, Housing and Urban Development Act 1993 is up to date with all changes known to be in force on or before 25 June 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)

- (4) The approval of the Treasury shall be required for any determination of the Secretary of State under this paragraph.

Staff

- 3
- (1) There shall be a chief executive of the Agency who shall be responsible to the Agency for the general exercise of the Agency's functions.
- (2) The chief executive shall be appointed by the Agency but no person shall be appointed as chief executive unless the Secretary of State has consented to the appointment.
- (3) The Agency may appoint such other number of staff as the Secretary of State may approve.
- (4) The terms and conditions of appointment of any person appointed by the Agency under this paragraph shall be determined by the Agency with the consent of the Secretary of State.
- (5) The Agency shall pay to members of its staff such remuneration, and such allowances, as it may, with the consent of the Secretary of State, determine.
- (6) The Agency may—
- (a) pay such pensions, allowances or gratuities to or in respect of any persons who have been or are members of its staff;
 - (b) make such payments towards provision for the payment of pensions, allowances or gratuities to or in respect of any such persons,
- as it may, with the consent of the Secretary of State, determine.
- (7) Any reference in sub-paragraph (6) to pensions, allowances or gratuities to or in respect of any such persons as are mentioned in that sub-paragraph includes a reference to payments by way of compensation to or in respect of any members of the Agency's staff who suffer loss of office or employment or loss or diminution of emoluments.
- (8) The approval of the Treasury shall be required for the giving of any consent under sub-paragraph (4), (5) or (6).

Delegation of powers

- 4
- Anything authorised or required to be done by the Agency under this Part—
- (a) may be done by any member of the Agency, or of its staff, who has been authorised for the purpose, whether generally or specially, by the Agency; or
 - (b) may be done by any committee or sub-committee of the Agency which has been so authorised.

Proceedings

- 5
- (1) Subject to the following provisions of this Schedule, the Agency may regulate both its own procedure (including quorum) and that of any committee or sub-committee.

Status: Point in time view as at 01/12/1993.

Changes to legislation: Leasehold Reform, Housing and Urban Development Act 1993 is up to date with all changes known to be in force on or before 25 June 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)

- (2) The Secretary of State may give directions as to the exercise by the Agency of its power under sub-paragraph (1) to regulate procedure; and directions under this sub-paragraph may be of a general or particular nature and may be varied or revoked by subsequent directions.
- (3) The validity of any proceedings of the Agency or of any committee or sub-committee of the Agency shall not be affected—
 - (a) by a vacancy amongst the members of the Agency, committee or sub-committee;
 - (b) by a defect in the appointment of a member of the Agency, committee or sub-committee; or
 - (c) by a contravention of directions under sub-paragraph (2) or of paragraph 6.
- (4) With the consent of the Secretary of State, persons who are not members of the Agency may be appointed as members of a committee or sub-committee of the Agency, but any such committee or sub-committee may not consist entirely of persons who are neither members of the Agency nor members of its staff.
- (5) The Agency may pay to any person who is a member of a committee or sub-committee but who is not a member of the Agency such remuneration, and such allowances, as the Secretary of State may, with the approval of the Treasury, determine.

Members' interests

- 6 (1) A member of the Agency or of any committee or sub-committee who is directly or indirectly interested in any matter brought up for consideration at a meeting of the Agency or of the committee or sub-committee shall disclose the nature of his interest to the meeting.
- (2) Where the matter in respect of which such a disclosure is made is a contract or agreement of any description, the member shall not take part in any deliberation or decision of the Agency, committee or sub-committee with respect to the matter.
- (3) Where the matter in respect of which such a disclosure is made is one other than a contract or agreement, the member may take part in any deliberation or decision of the Agency, committee or sub-committee with respect to the matter unless the rest of the members decide that the interest disclosed might prejudicially affect the member's consideration of the matter.

Application of seal and proof of instruments

- 7 (1) The application of the seal of the Agency shall be authenticated by the signature of any member of the Agency, or of its staff, who has been authorised by the Agency, whether generally or specially, for the purpose.
- (2) Every document purporting to be an instrument issued by the Agency and to be duly sealed with the seal of the Agency or to be signed on behalf of the Agency shall be received in evidence and, unless the contrary is shown, shall be deemed to be an instrument so issued.

Status: Point in time view as at 01/12/1993.

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House of Commons disqualification

8 In Schedule 1 to the ^{M48}House of Commons Disqualification Act 1975 (bodies of which all members are disqualified for membership of the House of Commons), in Part II there shall be inserted, at the appropriate place, the following entry—

“The Urban Regeneration Agency.” ; and the like insertion shall be made in Part II of Schedule 1 to the

M49

Northern Ireland Assembly Disqualification Act 1975.

Marginal Citations

M48 1975 c. 24.

M49 1975 c. 25.

SCHEDULE 18

Section 158(2).

FINANCES OF THE AGENCY

Commencement Information

I17 Sch. 18 wholly in force at 10.11.1993 see s. 188(2) and S.I 1993/2762, art. 3

Financial year

1 The financial years of the Agency shall be as follows—

- (a) the period beginning with the commencement of this Schedule and ending with the next following 31st March; and
- (b) each successive period of twelve months;

and references in this Schedule to a financial year shall be construed accordingly.

Financial duties

2 (1) After consultation with the Agency, the Secretary of State may, with the approval of the Treasury, determine the financial duties of the Agency; and different determinations may be made in relation to different functions of the Agency.

(2) The Secretary of State shall give the Agency notice of every determination, and a determination may—

- (a) relate to a period beginning before the date on which it is made;
- (b) contain incidental or supplementary provisions; and
- (c) be varied or revoked by a subsequent determination.

Government grants

3 (1) The Secretary of State may, out of moneys provided by Parliament and with the approval of the Treasury, pay to the Agency, in respect of the exercise of its functions

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and in respect of its administrative expenses, such sums as he may, with the approval of the Treasury, determine.

- (2) The payment may be made on such terms as the Secretary of State may, with the approval of the Treasury, determine.

Borrowing

- 4 (1) The Agency may borrow temporarily, by way of overdraft or otherwise, such sums as it may require for meeting its obligations and exercising its functions—
 - (a) in sterling from the Secretary of State; or
 - (b) with the consent of the Secretary of State, or in accordance with any general authority given by the Secretary of State, either in sterling or in a currency other than sterling from a person other than the Secretary of State.
- (2) The Agency may borrow otherwise than by way of temporary loan such sums as it may require—
 - (a) in sterling from the Secretary of State; or
 - (b) with the consent of the Secretary of State, in a currency other than sterling from a person other than the Secretary of State.
- (3) The Secretary of State may lend to the Agency any sums it has power to borrow from him under sub-paragraph (1) or (2).
- (4) The Treasury may issue to the Secretary of State out of the National Loans Fund any sums necessary to enable him to make loans under sub-paragraph (3).
- (5) Loans made under sub-paragraph (3) shall be repaid to the Secretary of State at such times and by such methods, and interest on the loans shall be paid to him at such times and at such rates, as he may determine.
- (6) All sums received by the Secretary of State under sub-paragraph (5) shall be paid into the National Loans Fund.
- (7) The approval of the Treasury shall be required for the giving of any consent or authority under sub-paragraph (1) or (2), the making of any loan under sub-paragraph (3) or the making of any determination under sub-paragraph (5).

Guarantees

- 5 (1) The Treasury may guarantee, in such manner and on such conditions as they think fit, the repayment of the principal of, and the payment of interest on, any sums which the Agency borrows from a person other than the Secretary of State.
- (2) Immediately after a guarantee is given under this paragraph, the Treasury shall lay a statement of the guarantee before each House of Parliament; and, where any sum is issued for fulfilling a guarantee so given, the Treasury shall lay before each House of Parliament a statement relating to that sum, as soon as possible after the end of each financial year—
 - (a) beginning with that in which the sum is issued; and
 - (b) ending with that in which all liability in respect of the principal of the sum and in respect of interest on it is finally discharged.
- (3) Any sums required by the Treasury for fulfilling a guarantee under this paragraph shall be charged on and issued out of the Consolidated Fund.

Status: Point in time view as at 01/12/1993.

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- (4) If any sums are issued in fulfilment of a guarantee given under this paragraph, the Agency shall make to the Treasury, at such times and in such manner as the Treasury may from time to time direct, payments of such amounts as the Treasury so direct in or towards repayment of the sums so issued and payments of interest, at such rates as the Treasury so direct, on what is outstanding for the time being in respect of sums so issued.
- (5) Any sums received by the Treasury in pursuance of sub-paragraph (4) shall be paid into the Consolidated Fund.

Surplus funds

- 6 (1) This paragraph applies where it appears to the Secretary of State, after consultation with the Treasury and the Agency, that the Agency has a surplus, whether on capital or on revenue account, after making allowance by way of transfer to reserve or otherwise for its future requirements.
- (2) The Agency shall, if the Secretary of State with the approval of the Treasury and after consultation with the Agency so directs, pay to the Secretary of State such sum not exceeding the amount of the surplus as may be specified in the direction.
- (3) Any sum received by the Secretary of State under this paragraph shall, subject to sub-paragraph (5), be paid into the Consolidated Fund.
- (4) The whole or part of any payment made to the Secretary of State by the Agency under sub-paragraph (2) shall, if the Secretary of State with the approval of the Treasury so determines, be treated as made—
 - (a) by way of repayment of such part of the principal of loans under paragraph 4(3); and
 - (b) in respect of the repayments due at such times, as may be so determined.
- (5) Any sum treated under sub-paragraph (4) as a repayment of a loan shall be paid by the Secretary of State into the National Loans Fund.

Financial limits

- 7 (1) The aggregate amount at any time of borrowed sums shall not exceed £200 million or such greater sum not exceeding £300 million as the Secretary of State may by order made by statutory instrument specify.
- (2) In sub-paragraph (1) “borrowed sums” means sums borrowed by the Agency under paragraph 4 minus repayments made or treated as made in respect of those sums.
- (3) No order shall be made under sub-paragraph (1) unless a draft of the order has been laid before and approved by resolution of the House of Commons.

Grants and loans: accounts

- 8 (1) The Secretary of State shall prepare in respect of each financial year an account—
 - (a) of the sums issued to him under paragraph 4(4) and the sums received by him under paragraph 4(5) and of the disposal by him of those sums; and
 - (b) of the sums paid into the Consolidated Fund or National Loans Fund under paragraph 6.

Status: Point in time view as at 01/12/1993.

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- (2) The Secretary of State shall send the account to the Comptroller and Auditor General before the end of the month of November next following the end of that year.
- (3) The Comptroller and Auditor General shall examine, certify and report on the account and lay copies of it and of his report before each House of Parliament.
- (4) The form of the account and the manner of preparing it shall be such as the Treasury may direct.

Accounts

- 9 (1) The Agency shall keep proper accounts and other records in relation to them.
- (2) The accounts and records shall show, in respect of the financial year to which they relate, a true and fair view of the Agency's activities.
- (3) The Agency shall prepare in respect of each financial year a statement of accounts complying with any requirement which the Secretary of State has, with the approval of the Treasury, notified in writing to the Agency relating to—
 - (a) the information to be contained in the statement;
 - (b) the manner in which the information is to be presented; and
 - (c) the methods and principles according to which the statement is to be prepared.
- (4) Subject to any requirement notified to the Agency under sub-paragraph (3), in preparing any statement of accounts in accordance with that sub-paragraph the Agency shall follow, with respect to each of the matters specified in paragraphs (a) to (c) of that sub-paragraph, such course as may for the time being be approved by the Secretary of State with the consent of the Treasury.

Audit

- 10 (1) The Agency's accounts and statements of accounts shall be audited by an auditor to be appointed annually by the Secretary of State.
- (2) A person shall not be qualified for appointment under sub-paragraph (1) unless—
 - (a) he is eligible for appointment as a company auditor under Part II of the ^{M50}Companies Act 1989 (eligibility for appointment as company auditor); and
 - (b) if the Agency were a body to which section 384 of the ^{M51}Companies Act 1985 (duty to appoint auditors) applies, he would not be ineligible for appointment as company auditor of the Agency by virtue of section 27 of the Companies Act 1989 (ineligibility on ground of lack of independence).

Marginal Citations

M50 1989 c. 40.

M51 1985 c. 6.

Status: Point in time view as at 01/12/1993.

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Transmission to Secretary of State

- 11 As soon as the accounts and statement of accounts of the Agency for any financial year have been audited, it shall send to the Secretary of State a copy of the statement, together with a copy of any report made by the auditor on the statement or on the accounts.

Reports

- 12 (1) As soon as possible after the end of each financial year, the Agency—
- (a) shall make to the Secretary of State a report dealing generally with its operations during the year; and
 - (b) shall include in the report a copy of its audited statement of accounts for that year and such information as the Secretary of State may specify.
- (2) The Secretary of State shall lay a copy of the report before each House of Parliament.

Information

- 13 Without prejudice to paragraph 12, the Agency shall provide the Secretary of State with such information relating to its activities as he may require, and for that purpose—
- (a) shall permit any person authorised by the Secretary of State to inspect and make copies of the accounts, books, documents or papers of the Agency; and
 - (b) shall afford such explanation of them as that person or the Secretary of State may reasonably require.

SCHEDULE 19

Section 161(4).

VESTING OF LAND IN THE AGENCY: MODIFICATIONS OF ENACTMENTS

Commencement Information

I18 Sch. 19 wholly in force at 10.11.1993 see s. 188(2) and S.I. 1993/2762, art. 3

Land Compensation Act 1961 (c. 33)

- 1 The Land Compensation Act 1961 shall have effect in relation to orders under section 161(1) of this Act with the modifications specified in paragraphs 2 to 5.
- 2 References to the date of service of a notice to treat shall be treated as references to the date on which an order under section 161(1) of this Act comes into force.
- 3 Section 17(2) (certification of appropriate alternative development) shall be treated as if for the words “the authority proposing to acquire the interest have served a notice to treat in respect thereof, or an agreement has been made for the sale thereof to that authority” there were substituted the words “ an order under section 161 of the Leasehold Reform, Housing and Urban Development Act 1993 vesting the land in which the interest subsists in the Urban Regeneration Agency has come into force, or an agreement has been made for the sale of the interest to the Agency ”.

Status: Point in time view as at 01/12/1993.

Changes to legislation: Leasehold Reform, Housing and Urban Development Act 1993 is up to date with all changes known to be in force on or before 25 June 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)

- 4 Section 22(2) (interpretation of Part III) shall be treated as if at the end of paragraph (c) there were added the words “or
(ca) where an order has been made under section 161(1) of the Leasehold Reform, Housing and Urban Development Act 1993 vesting the land in which the interest subsists in the Urban Regeneration Agency”.
- 5 Any reference to a notice to treat in section 39(2) (interpretation) shall be treated as a reference to an order under section 161(1) of this Act.

Compulsory Purchase (Vesting Declarations) Act 1981 (c. 66)

- 6 In section 15 of the Compulsory Purchase (Vesting Declarations) Act 1981 (application to orders under section 141 of Local Government, Planning and Land Act 1980) after the words “vesting declaration” there shall be inserted the words “ or under subsection (1) of section 161 of the Leasehold Reform, Housing and Urban Development Act 1993 (subsection (4) of which makes similar provision) ”.
- 7 (1) In Schedule 2 to that Act (vesting of land in urban development corporation), in paragraph 1 after the words “similar provision” there shall be inserted the words “ or under subsection (1) of section 161 of the Leasehold Reform, Housing and Urban Development Act 1993 (subsection (4) of which contains similar provision) ”.
- (2) In paragraph 3(a) of that Schedule for the words “or, as the case may be, the housing action trust” there shall be substituted the words “ the housing action trust or the Urban Regeneration Agency (as the case may be) ”.

SCHEDULE 20

Section 169.

THE AGENCY: LAND

Commencement Information

I19 Sch. 20 wholly in force at 10.11.1993 see s. 188(2) and S.I. 1993/2762, art. 3

PART I

MODIFICATIONS OF ACQUISITION OF LAND ACT 1981

- 1 The ^{M52}Acquisition of Land Act 1981 (in this Part of this Schedule referred to as “the 1981 Act”) shall have effect in relation to the compulsory acquisition of land under this Part of this Act with the modifications specified in paragraphs 2 and 3.

Marginal Citations

M52 1981 c. 67.

- 2 (1) Where a compulsory purchase order authorising the acquisition of any land is submitted to the Secretary of State in accordance with section 2(2) of the 1981 Act (procedure for authorisation), then if the Secretary of State—

Status: Point in time view as at 01/12/1993.

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- (a) is satisfied that the order ought to be confirmed so far as it relates to part of the land comprised in it, but
 - (b) has not for the time being determined whether it ought to be confirmed so far as it relates to any other such land,
- he may confirm the order so far as it relates to the land mentioned in paragraph (a), and give directions postponing the consideration of the order, so far as it relates to any other land specified in the directions, until such time as may be so specified.
- (2) Where the Secretary of State gives directions under sub-paragraph (1), the notices required by section 15 of the 1981 Act (notices after confirmation of order) to be published and served shall include a statement of the effect of the directions.
- 3 The reference in section 17(3) of the 1981 Act (local authority and statutory undertakers' land) to statutory undertakers includes a reference to the Agency.

PART II

LAND: SUPPLEMENTARY

Extinguishment of rights over land

- 4 (1) Subject to this paragraph, on an order under section 161(1) of this Act coming into force or the completion by the Agency of a compulsory acquisition of land under this Part of this Act—
- (a) all private rights of way and rights of laying down, erecting, continuing or maintaining any apparatus on, under or over the land shall be extinguished; and
 - (b) any such apparatus shall vest in the Agency.
- (2) Sub-paragraph (1) does not apply—
- (a) to any right vested in, or apparatus belonging to, statutory undertakers for the purpose of carrying on their undertaking; or
 - (b) to any right conferred by or in accordance with the telecommunications code on the operator of a telecommunications code system or to any telecommunications apparatus kept installed for the purposes of any such system.
- (3) In respect of any right or apparatus not falling within sub-paragraph (2), sub-paragraph (1) shall have effect subject to—
- (a) any direction given by the Secretary of State before the coming into force of the order or by the Agency before the completion of the acquisition (as the case may be) that sub-paragraph (1) shall not apply to any right or apparatus specified in the direction, and
 - (b) any agreement which may be made (whether before or after the coming into force of the order or completion of the acquisition) between the Secretary of State or the Agency and the person in or to whom the right or apparatus in question is vested or belongs.
- (4) Any person who suffers loss by the extinguishment of a right or the vesting of any apparatus under this paragraph shall be entitled to compensation from the Agency.

Status: Point in time view as at 01/12/1993.

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- (5) Any compensation payable under this paragraph shall be determined in accordance with the ^{M53}Land Compensation Act 1961.

Marginal Citations

M53 1961 c. 33.

Power to override easements

- 5 (1) The erection, construction, carrying out, or maintenance of any building or work on land which has been vested in or acquired by the Agency under this Part of this Act, whether done by the Agency or by any other person, is authorised by virtue of this paragraph if it is done in accordance with planning permission, notwithstanding that it involves—
- (a) interference with an interest or right to which this paragraph applies; or
 - (b) a breach of a restriction as to the user of land arising by virtue of a contract.
- (2) Nothing in sub-paragraph (1) shall authorise interference with any right of way or right of laying down, erecting, continuing or maintaining apparatus on, under or over land, being—
- (a) a right vested in or belonging to statutory undertakers for the purpose of the carrying on of their undertaking; or
 - (b) a right conferred by or in accordance with the telecommunications code on the operator of a telecommunications code system.
- (3) This paragraph applies to the following interests and rights, that is to say, any easement, liberty, privilege, right or advantage annexed to land and adversely affecting other land, including any natural right to support.
- (4) In respect of any interference or breach in pursuance of sub-paragraph (1), compensation shall be payable under section 7 or 10 of the ^{M54}Compulsory Purchase Act 1965, to be assessed in the same manner and subject to the same rules as in the case of other compensation under those sections in respect of injurious affection where the compensation is to be estimated in connection with a purchase by the Agency or the injury arises from the execution of works on land acquired by the Agency.
- (5) Where a person other than the Agency—
- (a) is liable to pay compensation by virtue of sub-paragraph (4); and
 - (b) fails to discharge that liability,
- the liability shall (subject to sub-paragraph (6)) be enforceable against the Agency.
- (6) Nothing in sub-paragraph (5) shall be construed as affecting any agreement between the Agency and any other person for indemnifying the Agency against any liability under that sub-paragraph.
- (7) Nothing in this paragraph shall be construed as authorising any act or omission on the part of any person which is actionable at the suit of any person on any grounds other than such an interference or breach as is mentioned in sub-paragraph (1).

Status: Point in time view as at 01/12/1993.

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- (8) Nothing in this paragraph shall be construed as authorising any act or omission on the part of the Agency or any body corporate in contravention of any limitation imposed by law on its capacity by virtue of its constitution.

Marginal Citations

M54 1965 c. 56.

Consecrated land and burial grounds

- 6 (1) Any consecrated land, whether including a building or not, which has been vested in or acquired by the Agency under this Part of this Act may (subject to the following provisions of this paragraph) be used by the Agency, or by any other person, in any manner in accordance with planning permission, notwithstanding any obligation or restriction imposed under ecclesiastical law or otherwise in respect of consecrated land.
- (2) Sub-paragraph (1) does not apply to land which consists or forms part of a burial ground.
- (3) Any use of consecrated land authorised by sub-paragraph (1), and the use of any land, not being consecrated land, vested or acquired as mentioned in that sub-paragraph which at the time of vesting or acquisition included a church or other building used or formerly used for religious worship or the site thereof, shall be subject to compliance with the prescribed requirements with respect to—
- (a) the removal and reinterment of any human remains; and
 - (b) the disposal of monuments,
- and, in the case of consecrated land, shall be subject to such provisions as may be prescribed for prohibiting or restricting the use of the land, either absolutely or until the prescribed consent has been obtained, so long as any church or other building used or formerly used for religious worship, or any part thereof, remains on the land.
- (4) Any regulations made for the purposes of sub-paragraph (3)—
- (a) shall contain such provisions as appear to the Secretary of State to be requisite for securing that any use of land which is subject to compliance with the regulations shall, as nearly as may be, be subject to the like control as is imposed by law in the case of a similar use authorised by an enactment not contained in this Act or by a Measure, or as it would be proper to impose on a disposal of the land in question otherwise than in pursuance of an enactment or Measure;
 - (b) shall contain requirements relating to the disposal of any such land as is mentioned in sub-paragraph (3) such as appear to the Secretary of State requisite for securing that the provisions of that sub-paragraph shall be complied with in relation to the use of the land; and
 - (c) may contain such incidental and consequential provisions (including provision as to the closing of registers) as appear to the Secretary of State to be expedient for the purposes of the regulations.
- (5) Any land consisting of a burial ground or part of a burial ground which has been vested in or acquired by the Agency under this Part of this Act may be used by the Agency in any manner in accordance with planning permission, notwithstanding

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anything in any enactment relating to burial grounds or any obligation or restriction imposed under ecclesiastical law or otherwise in respect of burial grounds.

- (6) Sub-paragraph (5) shall not have effect in respect of any land which has been used for the burial of the dead until the prescribed requirements with respect to the removal and reinterment of human remains and the disposal of monuments in or upon the land have been complied with.
- (7) Provision shall be made by any regulations made for the purposes of sub-paragraphs (3) and (6)—
 - (a) for requiring the persons in whom the land is vested to publish notice of their intention to carry out the removal and reinterment of any human remains or the disposal of any monuments;
 - (b) for enabling the personal representatives or relatives of any deceased person themselves to undertake the removal and reinterment of the remains of the deceased and the disposal of any monument commemorating the deceased, and for requiring the persons in whom the land is vested to defray the expenses of such removal, reinterment and disposal, not exceeding such amount as may be prescribed;
 - (c) for requiring compliance with such reasonable conditions (if any) as may be imposed, in the case of consecrated land, by the bishop of the diocese, with respect to the manner of removal and the place and manner of reinterment of any human remains and the disposal of any monuments; and
 - (d) for requiring compliance with any directions given in any case by the Secretary of State with respect to the removal and reinterment of any human remains.
- (8) Subject to the provisions of any such regulations as are referred to in sub-paragraph (7), no faculty shall be required—
 - (a) for the removal and reinterment in accordance with the regulations of any human remains; or
 - (b) for the removal or disposal of any monuments;and the provisions of section 25 of the ^{M55}Burial Act 1857 (which prohibits the removal of human remains without the licence of the Secretary of State except in certain cases) shall not apply to a removal carried out in accordance with the regulations.
- (9) Any power conferred by this paragraph to use land in a manner therein mentioned shall be construed as a power so to use the land, whether or not it involves—
 - (a) the erection, construction or carrying out of any building or work; or
 - (b) the maintenance of any building or work.
- (10) Nothing in this paragraph shall be construed as authorising any act or omission on the part of any person which is actionable at the suit of any person on any grounds other than contravention of any such obligation, restriction or enactment as is mentioned in sub-paragraph (1) or (5).
- (11) Sub-paragraph (8) of paragraph 5 shall apply in relation to this paragraph as it applies in relation to that.
- (12) In this paragraph—

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“burial ground” includes any churchyard, cemetery or other ground, whether consecrated or not, which has at any time been set apart for the purposes of interment; and

“monument” includes a tombstone or other memorial.

- (13) In this paragraph “prescribed” means prescribed by regulations made by the Secretary of State.
- (14) The power to make regulations under this paragraph shall be exercisable by statutory instrument which shall be subject to annulment in pursuance of a resolution of either House of Parliament.

Marginal Citations

M55 1857 c. 81.

Open spaces

- 7 (1) Any land being, or forming part of, a common, open space or fuel or field garden allotment, which has been vested in or acquired by the Agency under this Part of this Act may be used by the Agency, or by any other person, in any manner in accordance with planning permission, notwithstanding anything in any enactment—
- (a) relating to land of that kind; or
 - (b) by which the land is specially regulated.
- (2) Nothing in this paragraph shall be construed as authorising any act or omission on the part of any person which is actionable at the suit of any person on any grounds other than contravention of any such enactment as is mentioned in sub-paragraph (1).
- (3) Sub-paragraph (8) of paragraph 5 shall apply in relation to this paragraph as it applies in relation to that.

Displacement of persons

- 8 If the Secretary of State certifies that possession of a house which—
- (a) has been vested in or acquired by the Agency under this Part of this Act; and
 - (b) is for the time being held by the Agency for the purposes of its objects,
- is immediately required for those purposes, nothing in the ^{M56}Rent (Agriculture) Act 1976, the ^{M57}Rent Act 1977 or the ^{M58}Housing Act 1988 shall prevent the Agency from obtaining possession of the house.

Marginal Citations

M56 1976 c. 80.

M57 1977 c. 42.

M58 1988 c. 50.

Extinguishment of public rights of way

- 9 (1) Where any land—
- (a) has been vested in or acquired by the Agency under this Part of this Act; and

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- (b) is for the time being held by the Agency for the purposes of its objects, the Secretary of State may by order extinguish any public right of way over the land.
- (2) Where the Secretary of State proposes to make an order under this paragraph, he shall—
- (a) publish in such manner as appears to him to be requisite a notice—
- (i) stating the effect of the order, and
- (ii) specifying the time (not being less than 28 days from the publication of the notice) within which, and the manner in which, objections to the proposal may be made; and
- (b) serve a like notice—
- (i) on the local planning authority in whose area the land is situated; and
- (ii) on the relevant highway authority.
- (3) In sub-paragraph (2) “the relevant highway authority” means any authority which is a highway authority in relation to the right of way proposed to be extinguished by the order under this paragraph.
- (4) Where an objection to a proposal to make an order under this paragraph is duly made and is not withdrawn, the provisions of paragraph 10 shall have effect in relation to the proposal.
- (5) For the purposes of this paragraph an objection to such a proposal shall not be treated as duly made unless—
- (a) it is made within the time and in the manner specified in the notice required by this paragraph; and
- (b) a statement in writing of the grounds of the objection is comprised in or submitted with the objection.
- 10 (1) In this paragraph any reference to making a final decision, in relation to an order, is a reference to deciding whether to make the order or what modification, if any, ought to be made.
- (2) Unless the Secretary of State decides apart from the objection not to make the order, or decides to make a modification which is agreed to by the objector as meeting the objection, the Secretary of State—
- (a) shall, before making a final decision, consider the grounds of the objection as set out in the statement comprised in or submitted with the objection; and
- (b) may, if he thinks fit, require the objector to submit within a specified period a further statement in writing as to any of the matters to which the objection relates.
- (3) In so far as the Secretary of State, after considering the grounds of the objection as set out in the original statement and in any such further statement, is satisfied that the objection relates to a matter which can be dealt with in the assessment of compensation, he may treat the objection as irrelevant for the purpose of making a final decision.
- (4) In any case where—
- (a) after considering the grounds of the objection as set out in the original statement and in any such further statement, the Secretary of State is satisfied that, for the purpose of making a final decision, he is sufficiently informed as to the matters to which the objection relates; or

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- (b) a further statement has been required but is not submitted within the specified period,
- the Secretary of State may make a final decision without further investigation as to the matters to which the objection relates.
- (5) Subject to sub-paragraphs (3) and (4), the Secretary of State, before making a final decision, shall afford to the objector an opportunity of appearing before, and being heard by, a person appointed for the purpose by the Secretary of State; and if the objector avails himself of that opportunity, the Secretary of State shall afford an opportunity of appearing and being heard on the same occasion—
- (a) to the Agency; and
- (b) to any other persons to whom it appears to the Secretary of State to be expedient to afford such an opportunity.
- (6) Notwithstanding anything in the preceding provisions of this paragraph, if it appears to the Secretary of State that the matters to which the objection relates are such as to require investigation by public local inquiry before he makes a final decision, he shall cause such an inquiry to be held; and where he determines to cause such an inquiry to be held, any of the requirements of those provisions to which effect has not been given at the time of that determination shall be dispensed with.

Telegraphic lines

- 11 (1) Where an order under paragraph 9 extinguishing a public right of way is made and at the time of the publication of the notice required by sub-paragraph (2) of that paragraph any telecommunication apparatus was kept installed for the purposes of a telecommunications code system under, in, on, over, along or across the land over which the right of way subsisted—
- (a) the power of the operator of the system to remove the apparatus shall, notwithstanding the making of the order, be exercisable at any time not later than the end of the period of three months from the date on which the right of way is extinguished and shall be exercisable in respect of the whole or any part of the apparatus after the end of that period if before the end of that period the operator of the system has given notice to the Agency of his intention to remove the apparatus or that part of it, as the case may be;
- (b) the operator of the system may by notice given in that behalf to the Agency not later than the end of the said period of three months abandon the telecommunication apparatus or any part of it;
- (c) subject to paragraph (b), the operator of the system shall be deemed at the end of that period to have abandoned any part of the apparatus which he has then neither removed nor given notice of his intention to remove;
- (d) the operator of the system shall be entitled to recover from the Agency the expense of providing, in substitution for the apparatus and any other telecommunication apparatus connected with it which is rendered useless in consequence of the removal or abandonment of the first-mentioned apparatus, any telecommunication apparatus in such other place as the operator may require; and
- (e) where under the preceding provisions of this sub-paragraph the operator of the system has abandoned the whole or any part of any telecommunication apparatus, that apparatus or that part of it shall vest in the Agency and shall be deemed, with its abandonment, to cease to be kept installed for the purposes of a telecommunications code system.

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- (2) As soon as practicable after the making of an order under paragraph 9 extinguishing a public right of way in circumstances in which sub-paragraph (1) applies in relation to the operator of any telecommunications code system, the Secretary of State shall give notice to the operator of the making of the order.

Statutory undertakers

- 12 (1) Where any land has been vested in or acquired by the Agency under this Part of this Act and—
- (a) there subsists over that land a right vested in or belonging to statutory undertakers for the purpose of the carrying on of their undertaking, being a right of way or a right of laying down, erecting, continuing or maintaining apparatus on, under or over that land, or
 - (b) there is on, under or over the land apparatus vested in or belonging to statutory undertakers for the purpose of the carrying on of their undertaking, the Agency may serve on the statutory undertakers a notice stating that, at the end of the period of 28 days from the date of service of the notice or such longer period as may be specified therein, the right will be extinguished or requiring that, before the end of that period, the apparatus shall be removed.
- (2) The statutory undertakers on whom a notice is served under sub-paragraph (1) may, before the end of the period of 28 days from the service of the notice, serve a counter-notice on the Agency stating that they object to all or any provisions of the notice and specifying the grounds of their objection.
- (3) If no counter-notice is served under sub-paragraph (2)—
- (a) any right to which the notice relates shall be extinguished at the end of the period specified in that behalf in the notice; and
 - (b) if, at the end of the period so specified in relation to any apparatus, any requirement of the notice as to the removal of the apparatus has not been complied with, the Agency may remove the apparatus and dispose of it in any way it may think fit.
- (4) If a counter-notice is served under sub-paragraph (2) on the Agency, it may either withdraw the notice (without prejudice to the service of a further notice) or apply to the Secretary of State and the appropriate Minister for an order under this paragraph embodying the provisions of the notice with or without modification.
- (5) Where by virtue of this paragraph any right vested in or belonging to statutory undertakers is extinguished, or any requirement is imposed on statutory undertakers, those undertakers shall be entitled to compensation from the Agency.
- (6) Sections 280 and 282 of the ^{M59}Town and Country Planning Act 1990 (measure of compensation to statutory undertakers) shall apply to compensation under sub-paragraph (5) as they apply to compensation under section 279(4) of that Act.
- (7) Except in a case where paragraph 11 applies—
- (a) the reference in paragraph (a) of sub-paragraph (1) to a right vested in or belonging to statutory undertakers for the purpose of the carrying on of their undertaking shall include a reference to a right conferred by or in accordance with the telecommunications code on the operator of a telecommunications code system; and

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- (b) the reference in paragraph (b) of that sub-paragraph to apparatus vested in or belonging to statutory undertakers for the purpose of the carrying on of their undertaking shall include a reference to telecommunication apparatus kept installed for the purposes of any such system.
- (8) Where paragraph (a) or (b) of sub-paragraph (1) has effect as mentioned in sub-paragraph (7), in the rest of this paragraph and in paragraph 13—
 - (a) any reference to statutory undertakers shall have effect as a reference to the operator of any such system as is referred to in sub-paragraph (7); and
 - (b) any reference to the appropriate Minister shall have effect as a reference to the Secretary of State for Trade and Industry.

Marginal Citations

M59 1990 c. 8.

- 13 (1) Before making an order under paragraph 12 the Secretary of State and the appropriate Minister—
 - (a) shall afford to the statutory undertakers on whom notice was served under paragraph 12(1) an opportunity of objecting to the application for the order; and
 - (b) if any objection is made, shall consider the objection and afford to those statutory undertakers and to the Agency an opportunity of appearing before and being heard by a person appointed by the Secretary of State and the appropriate Minister for the purpose;

and the Secretary of State and the appropriate Minister may then, if they think fit, make the order in accordance with the application either with or without modification.
- (2) Where an order is made under paragraph 12—
 - (a) any right to which the order relates shall be extinguished at the end of the period specified in that behalf in the order; and
 - (b) if, at the end of the period so specified in relation to any apparatus, any requirement of the order as to the removal of the apparatus has not been complied with, the Agency may remove the apparatus and dispose of it in any way it may think fit.
- 14 (1) Subject to this paragraph, where any land has been vested in or acquired by the Agency under this Part of this Act and—
 - (a) there is on, under or over the land apparatus vested in or belonging to statutory undertakers, and
 - (b) the undertakers claim that development to be carried out on the land is such as to require, on technical or other grounds connected with the carrying on of their undertaking, the removal or re-siting of the apparatus affected by the development,

the undertakers may serve on the Agency a notice claiming the right to enter on the land and carry out such works for the removal or re-siting of the apparatus or any part of it as may be specified in the notice.
- (2) Where, after the land has been vested or acquired as mentioned in sub-paragraph (1), development of the land is begun to be carried out, no notice under this paragraph shall be served later than 21 days after the beginning of the development.

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- (3) Where a notice is served under this paragraph the Agency may, before the end of the period of 28 days from the date of service, serve on the statutory undertakers a counter-notice stating that it objects to all or any of the provisions of the notice and specifying the grounds of its objection.
- (4) If no counter-notice is served under sub-paragraph (3), the statutory undertakers shall, after the end of the said period of 28 days, have the rights claimed in their notice.
- (5) If a counter-notice is served under sub-paragraph (3), the statutory undertakers who served the notice under this paragraph may either withdraw it or apply to the Secretary of State and the appropriate Minister for an order under this paragraph conferring on the undertakers—
 - (a) the rights claimed in the notice; or
 - (b) such modified rights as the Secretary of State and the appropriate Minister think it expedient to confer on them.
- (6) Where by virtue of this paragraph or an order made by the Secretary of State and the appropriate Minister under it, statutory undertakers have the right to execute works for the removal or re-siting of apparatus, they may arrange with the Agency for the works to be carried out by the Agency, under the superintendence of the undertakers, instead of by the undertakers themselves.
- (7) Where works are carried out for the removal or re-siting of statutory undertakers' apparatus, being works which the undertakers have the right to carry out by virtue of this paragraph or an order made by the Secretary of State and the appropriate Minister under it, the undertakers shall be entitled to compensation from the Agency.
- (8) Sections 280 and 282 of the ^{M60}Town and Country Planning Act 1990 (measure of compensation to statutory undertakers) shall apply to compensation under sub-paragraph (7) as they apply to compensation under section 279(4) of that Act.
- (9) In sub-paragraph (1)(a), the reference to apparatus vested in or belonging to statutory undertakers shall include a reference to telecommunication apparatus kept installed for the purposes of a telecommunications code system.
- (10) Where sub-paragraph (1)(a) has effect as mentioned in sub-paragraph (9), in the rest of this paragraph—
 - (a) any reference to statutory undertakers shall have effect as a reference to the operator of any such system as is referred to in sub-paragraph (9); and
 - (b) any reference to the appropriate Minister shall have effect as a reference to the Secretary of State for Trade and Industry.

Marginal Citations

M60 1990 c. 8.

- 15 (1) The powers conferred by this paragraph shall be exercisable where, on a representation made by statutory undertakers, it appears to the Secretary of State and the appropriate Minister to be expedient that the powers and duties of those undertakers should be extended or modified, in order—

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- (a) to secure the provision of services which would not otherwise be provided, or which would not otherwise be satisfactorily provided, in relation to relevant land; or
 - (b) to facilitate an adjustment of the carrying on of the undertaking necessitated by any of the acts and events mentioned in sub-paragraph (2).
- (2) The said acts and events are—
- (a) the vesting in or acquisition by the Agency under this Part of this Act of any land in which an interest was held, or which was used, for the purpose of the carrying on of the undertaking of the statutory undertakers in question; and
 - (b) the extinguishment of a right or the imposition of any requirement by virtue of paragraph 12.
- (3) The powers conferred by this paragraph shall also be exercisable where, on a representation made by the Agency, it appears to the Secretary of State and the appropriate Minister to be expedient that the powers and duties of statutory undertakers should be extended or modified, in order to secure the provision of new services, or the extension of existing services, in relation to relevant land.
- (4) Where the powers conferred by this paragraph are exercisable, the Secretary of State and the appropriate Minister may, if they think fit, by order provide for such extension or modification of the powers and duties of the statutory undertakers as appears to them to be requisite in order to secure—
- (a) the provision of the services in question, as mentioned in sub-paragraph (1) (a) or sub-paragraph (3); or
 - (b) the adjustment in question, as mentioned in sub-paragraph (1)(b), as the case may be.
- (5) Without prejudice to the generality of sub-paragraph (4), an order under this paragraph may make provision—
- (a) for empowering the statutory undertakers to acquire (whether compulsorily or by agreement) any land specified in the order, and to erect or construct any buildings or works so specified;
 - (b) for applying, in relation to the acquisition of any such land or the construction of any such works, enactments relating to the acquisition of land and the construction of works;
 - (c) where it has been represented that the making of the order is expedient for the purposes mentioned in sub-paragraph (1)(a) or (3), for giving effect to such financial arrangements between the Agency and the statutory undertakers as they may agree, or as, in default of agreement, may be determined to be equitable in such manner and by such tribunal as may be specified in the order; and
 - (d) for such incidental and supplemental matters as appear to the Secretary of State and the appropriate Minister to be expedient for the purposes of the order.
- (6) In this paragraph “relevant land” means land in respect of which any of the functions of the Agency under this Part of this Act are being or have been exercised.
- 16 (1) As soon as may be after making such a representation as is mentioned in sub-paragraph (1) or (3) of paragraph 15—
- (a) the statutory undertakers, in a case falling within sub-paragraph (1), or
 - (b) the Agency, in a case falling within sub-paragraph (3),

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shall publish, in such form and manner as may be directed by the Secretary of State and the appropriate Minister, a notice giving such particulars as may be so directed of the matters to which the representation relates, and specifying the time within which, and the manner in which, objections to the making of an order on the representation may be made, and shall also, if it is so directed by the Secretary of State and the appropriate Minister, serve a like notice on such persons, or persons of such classes, as may be so directed.

- (2) Orders under paragraph 15 shall be subject to special parliamentary procedure.
- 17 (1) Where, on a representation made by statutory undertakers, the appropriate Minister is satisfied that the fulfilment of any obligations incurred by those undertakers in connection with the carrying on of their undertaking has been rendered impracticable by an act or event to which this sub-paragraph applies, the appropriate Minister may, if he thinks fit, by order direct that the statutory undertakers shall be relieved of the fulfilment of that obligation, either absolutely or to such extent as may be specified in the order.
- (2) Sub-paragraph (1) applies to the following acts and events—
- (a) the vesting in or acquisition by the Agency under this Part of this Act of any land in which an interest was held, or which was used, for the purpose of the carrying on of the undertaking of the statutory undertakers; and
 - (b) the extinguishment of a right or the imposition of any requirement by virtue of paragraph 12.
- (3) As soon as may be after making a representation to the appropriate Minister under sub-paragraph (1), the statutory undertakers shall, as may be directed by the appropriate Minister, do either or both of the following, that is to say—
- (a) publish (in such form and manner as may be so directed) a notice—
 - (i) giving such particulars as may be so directed of the matters to which the representation relates; and
 - (ii) specifying the time within which, and the manner in which, objections to the making of an order on the representation may be made; and
 - (b) serve a like notice on such persons, or persons of such classes, as may be so directed.
- (4) If any objection to the making of an order under this paragraph is duly made and is not withdrawn before the order is made, the order shall be subject to special parliamentary procedure.
- (5) Immediately after an order is made under this paragraph by the appropriate Minister, he shall publish a notice stating that the order has been made and naming a place where a copy of it may be seen at all reasonable hours, and shall serve a like notice—
- (a) on any person who duly made an objection to the order and has sent to the appropriate Minister a request in writing to serve him with the notice required by this sub-paragraph, specifying an address for service; and
 - (b) on such other persons (if any) as the appropriate Minister thinks fit.
- (6) Subject to the following provisions of this paragraph, an order under this paragraph shall become operative on the date on which the notice required by sub-paragraph (5) is first published.

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- (7) Where in accordance with sub-paragraph (4) the order is subject to special parliamentary procedure, sub-paragraph (6) shall not apply.
- (8) If any person aggrieved by an order under this paragraph wishes to question the validity of the order on the ground—
- (a) that it is not within the powers conferred by this paragraph, or
 - (b) that any requirement of this paragraph has not been complied with in relation to the order,
- he may, within six weeks from the date on which the notice required by sub-paragraph (5) is first published, make an application to the High Court under this paragraph.
- (9) On any application under sub-paragraph (8) the High Court—
- (a) may by interim order wholly or in part suspend the operation of the order, either generally or in so far as it affects any property of the applicant, until the final determination of the proceedings; and
 - (b) if satisfied—
 - (i) that the order is wholly or to any extent outside the powers conferred by this paragraph; or
 - (ii) that the interests of the applicant have been substantially prejudiced by the failure to comply with any requirement of this paragraph,
 may wholly or in part quash the order, either generally or in so far as it affects any property of the applicant.
- (10) Subject to sub-paragraph (8), the validity of an order under this paragraph shall not be questioned in any legal proceedings whatsoever, either before or after the order has been made.
- 18 (1) For the purposes of paragraphs 15 and 17, an objection to the making of an order thereunder shall not be treated as duly made unless—
- (a) the objection is made within the time and in the manner specified in the notice required by paragraph 16 or 17 (as the case may be); and
 - (b) a statement in writing of the grounds of the objection is comprised in or submitted with the objection.
- (2) Where an objection to the making of such an order is duly made in accordance with sub-paragraph (1) and is not withdrawn, the following provisions of this paragraph shall have effect in relation thereto; but, in the application of those provisions to an order under paragraph 15, any reference to the appropriate Minister shall be construed as a reference to the Secretary of State and the appropriate Minister.
- (3) Unless the appropriate Minister decides apart from the objection not to make the order, or decides to make a modification which is agreed to by the objector as meeting the objection, the appropriate Minister, before making a final decision—
- (a) shall consider the grounds of the objection as set out in the statement; and
 - (b) may, if he thinks fit, require the objector to submit within a specified period a further statement in writing as to any of the matters to which the objection relates.
- (4) In so far as the appropriate Minister after considering the grounds of the objection as set out in the original statement and in any such further statement, is satisfied that the objection relates to a matter which can be dealt with in the assessment of

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compensation, the appropriate Minister may treat the objection as irrelevant for the purpose of making a final decision.

- (5) In any case where—
- (a) after considering the grounds of the objection as set out in the original statement and in any such further statement, the appropriate Minister is satisfied that, for the purpose of making a final decision, he is sufficiently informed as to the matters to which the objection relates; or
 - (b) a further statement has been required but is not submitted within the specified period,
- the appropriate Minister may make a final decision without further investigation as to the matters to which the objection relates.
- (6) Subject to sub-paragraphs (4) and (5), the appropriate Minister, before making a final decision, shall afford to the objector an opportunity of appearing before, and being heard by, a person appointed for the purpose by the appropriate Minister; and if the objector avails himself of that opportunity, the appropriate Minister shall afford an opportunity of appearing and being heard on the same occasion—
- (a) to the person (being the Agency or the statutory undertakers) on whose representation the order is proposed to be made; and
 - (b) to any other persons to whom it appears to the appropriate Minister to be expedient to afford such an opportunity.
- (7) Notwithstanding anything in the preceding provisions of this paragraph, if it appears to the appropriate Minister that the matters to which the objection relates are such as to require investigation by public local inquiry before he makes a final decision, he shall cause such an inquiry to be held; and where he determines to cause such an inquiry to be held, any of the requirements of those provisions to which effect has not been given at the time of that determination shall be dispensed with.
- (8) In this paragraph any reference to making a final decision, in relation to an order, is a reference to deciding whether to make the order or what modification (if any) ought to be made.

Interpretation

- 19 (1) Any expression used in this Part of this Schedule to which a meaning is assigned by paragraph 1 of Schedule 4 to the ^{M61}Telecommunications Act 1984 has that meaning in this Part.
- (2) In this Part of this Schedule “statutory undertakers” means persons who are or are deemed to be statutory undertakers for the purposes of any provision of Part XI of the ^{M62}Town and Country Planning Act 1990; and “statutory undertaking” shall be construed in accordance with section 262 of that Act (meaning of “statutory undertaker”).
- (3) In this Part of this Schedule “the appropriate Minister” shall be construed as if contained in Part XI the Town and Country Planning Act 1990; and any reference to the Secretary of State and the appropriate Minister shall be similarly construed.

Marginal Citations

M61 1984 c. 12.

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M62 1990 c. 8.

PART III

ACQUISITION OF RIGHTS

- 20 (1) The ^{M63}Compulsory Purchase Act 1965 (in this Part of this Schedule referred to as “the 1965 Act”) shall have effect with the modifications necessary to make it apply to the compulsory acquisition of rights by virtue of section 162(2) of this Act as it applies to the compulsory purchase of land so that, in appropriate contexts, references in the 1965 Act to land are read as referring, or as including references, to the rights or to land over which the rights are or are to be exercisable, according to the requirements of the particular context.
- (2) Without prejudice to the generality of sub-paragraph (1), in relation to the acquisition of rights by virtue of section 162(2) of this Act—
- (a) Part I of the 1965 Act (which relates to compulsory purchases under the ^{M64}Acquisition of Land Act 1981) shall have effect with the modifications specified in paragraphs 21 to 23; and
 - (b) the enactments relating to compensation for the compulsory purchase of land shall apply with the necessary modifications as they apply to such compensation.

Marginal Citations

M63 1965 c. 56.

M64 1981 c. 67.

- 21 For section 7 of the 1965 Act (which relates to compensation) there shall be substituted the following section—
- “7 (1) In assessing the compensation to be paid by the acquiring authority under this Act regard shall be had not only to the extent, if any, to which the value of the land over which the right is purchased is depreciated by the purchase but also to the damage, if any, to be sustained by the owner of the land by reason of injurious affection of other land of the owner by the exercise of the right.
- (2) The modifications subject to which subsection (1) of section 44 of the Land Compensation Act 1973 (compensation for injurious affection) is to have effect, as applied by subsection (2) of that section to compensation for injurious affection under this section, are that for the words “land is acquired or taken” there shall be substituted the words “a right over land is acquired” and for the words “acquired or taken from him” there shall be substituted the words “over which the right is exercisable”.”
- 22 For section 8 of the 1965 Act (which relates to cases in which a vendor cannot be required to sell part only of a building or garden) there shall be substituted the following section—
- “8 (1) Where in consequence of the service on a person in pursuance of section 5 of this Act of a notice to treat in respect of a right over land consisting of a

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house, building or manufactory or of a park or garden belonging to a house (“the relevant land”)—

- (a) a question of disputed compensation in respect of the purchase of the right would apart from this section fall to be determined by the Lands Tribunal (“the Tribunal”); and
- (b) before the Tribunal has determined that question the person satisfies the Tribunal that he has an interest which he is able and willing to sell in the whole of the relevant land and—
 - (i) where that land consists of a house, building or manufactory, that the right cannot be purchased without material detriment to that land, or
 - (ii) where that land consists of such a park or garden, that the right cannot be purchased without seriously affecting the amenity or convenience of the house to which that land belongs,

the compulsory purchase order to which the notice to treat relates shall, in relation to that person, cease to authorise the purchase of the right and be deemed to authorise the purchase of that person’s interest in the whole of the relevant land including, where the land consists of such a park or garden, the house to which it belongs, and the notice shall be deemed to have been served in respect of that interest on such date as the Tribunal directs.

- (2) Any question as to the extent of the land in which a compulsory purchase order is deemed to authorise the purchase of an interest by virtue of the preceding subsection shall be determined by the Tribunal.
- (3) Where in consequence of a determination of the Tribunal that it is satisfied as mentioned in subsection (1) of this section a compulsory purchase order is deemed by virtue of that subsection to authorise the purchase of an interest in land, the acquiring authority may, at any time within the period of six weeks beginning with the date of the determination, withdraw the notice to treat in consequence of which the determination was made; but nothing in this subsection prejudices any other power of the authority to withdraw the notice.
- (4) The modifications subject to which subsection (1) of section 58 of the Land Compensation Act 1973 (determination of material detriment) is to have effect, as applied by subsection (2) of that section to the duty of the Tribunal in determining whether it is satisfied as mentioned in subsection (1) of this section, are that—
 - (a) at the beginning of paragraphs (a) and (b) there shall be inserted the words “a right over”;
 - (b) for the word “severance” there shall be substituted the words “right on the whole of the house, building or manufactory or of the house and the park or garden”; and
 - (c) for the words “part proposed” and “part is” there shall be substituted respectively the words “right proposed” and “right is”.

- 23 (1) The following provisions of the 1965 Act (which state the effect of a deed poll executed in various circumstances where there is no conveyance by persons with interests in the land), namely—
- (a) section 9(4) (failure of owners to convey);
 - (b) paragraph 10(3) of Schedule 1 (owners under incapacity);

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- (c) paragraph 2(3) of Schedule 2 (absent and untraced owners); and
(d) paragraphs 2(3) and 7(2) of Schedule 4 (common land),
shall be so modified as to secure that, as against persons with interests in the land which are expressed to be overridden by the deed, the right which is to be acquired compulsorily is vested absolutely in the acquiring authority.
- (2) Section 11 of the 1965 Act (powers of entry) shall be so modified as to secure that, as from the date on which the acquiring authority has served notice to treat in respect of any right, it has power, exercisable in the like circumstances and subject to the like conditions, to enter for the purpose of exercising that right (which shall be deemed for this purpose to have been created on the date of service of the notice); and sections 12 (penalty for unauthorised entry) and 13 (entry on sheriff’s warrant in the event of obstruction) of the 1965 Act shall be modified correspondingly.
- (3) Section 20 of the 1965 Act (compensation for short-term tenants) shall apply with the modifications necessary to secure that persons with such interests as are mentioned in that section are compensated in a manner corresponding to that in which they would be compensated on a compulsory purchase of the interests but taking into account only the extent (if any) of such interference with such interests as is actually caused, or likely to be caused, by the exercise of the right in question.
- (4) Section 22 of the 1965 Act (protection of acquiring authority’s possession of land where by inadvertence an interest in the land has not been purchased) shall be so modified as to enable the acquiring authority, in circumstances corresponding to those referred to in that section, to continue to be entitled to exercise the right in question, subject to compliance with that section as respects compensation.

SCHEDULE 21

Section 187(1).

MINOR AND CONSEQUENTIAL AMENDMENTS

Land Registration Act 1925 (c. 21)

- 1 In section 49(1) of the Land Registration Act 1925 (rules to provide for notices of other rights, interests and claims), there shall be added at the end—
“(k) orders made under section 26(1) or 50(1) of the Leasehold Reform, Housing and Urban Development Act 1993 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.”

Landlord and Tenant Act 1954 (c. 56)

- 2 In subsection (1) of section 60 of the Landlord and Tenant Act 1954 (special provisions as to premises provided by English Industrial Estates Corporation etc.), for the words “the English Industrial Estates Corporation” there shall be substituted the words “ the Urban Regeneration Agency ”.

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PROSPECTIVE

F17 ...

Textual Amendments

F17 Sch. 21 para. 3 and cross-heading repealed (1.12.2008) by Housing and Regeneration Act 2008 (c. 17), s. 325(1), Sch. 16; S.I. 2008/3068, art. 5, Sch. (with arts. 6-13)

F17³

Leasehold Reform Act 1967 (c. 88)

PROSPECTIVE

4 In subsection (1A) of section 21 of the Leasehold Reform Act 1967 (jurisdiction of leasehold valuation tribunals), for the words from “be” onwards there shall be substituted the words “ comply with any requirements imposed by regulations under subsection (4A)(a) or (b) below ”.

Land Compensation Act 1973 (c. 26)

5 After section 12 of the ^{M65}Land Compensation Act 1973 (tenants entitled to enfranchisement or extension under Leasehold Reform Act 1967) there shall be inserted the following section—

“12A Tenants participating in collective enfranchisement, or entitled to individual lease extension, under Part I of Leasehold Reform, Housing and Urban Development Act 1993.

- (1) A tenancy to which subsection (2) or (3) below applies (“a qualifying tenancy”) shall be treated as an owner’s interest as defined in section 2(4) above whether or not the unexpired term on the date of service of the notice of claim is of the length there specified.
- (2) This subsection applies to a tenancy if the tenant, on the relevant date—
 - (a) is in respect of the tenancy a qualifying tenant for the purposes of Chapter I of Part I of the 1993 Act (collective enfranchisement); and
 - (b) by virtue of the tenancy, either—
 - (i) is a participating tenant in relation to a claim to exercise the right to collective enfranchisement under that Chapter; or
 - (ii) is one of the participating tenants on whose behalf the acquisition by the nominee purchaser has been made in pursuance of such a claim.
- (3) This subsection applies to a tenancy if the tenant, on the relevant date and in respect of the tenancy, is a qualifying tenant for the purposes of Chapter II of Part I of the 1993 Act (individual right to acquire new lease) who—

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- (a) has on or before that date given notice under section 42 of that Act (notice by qualifying tenant of claim to exercise right); and
 - (b) has not acquired a new lease before that date.
- (4) If no claim is made in respect of a qualifying tenancy before the claimant has ceased to be entitled to it in consequence of a lease being granted to him by the nominee purchaser or, as the case may be, under Chapter II of Part I of the 1993 Act, the claimant may make a claim in respect of the qualifying tenancy as if he were still entitled to it.
- (5) No claim shall be made by virtue of subsection (4) above after the claimant has ceased to be entitled to the lease referred to in that subsection, but such a claim may be made before the first claim day if it is made before the claimant has disposed of that lease and after he has made a contract for disposing of it.
- (6) Compensation shall not be payable before the first claim day on any claim made by virtue of subsection (5) above.
- (7) Any notice of a claim made by virtue of this section shall contain, in addition to the matters mentioned in section 3 above, a statement that it is made in respect of a qualifying tenancy as defined in this section and, if made by virtue of subsection (4) or (5) above, sufficient particulars to show that it falls within that subsection.
- (8) In relation to a claim made by virtue of subsection (4) above, section 4(4)(a) above shall have effect as if the reference to the date of service of notice of the claim were a reference to the relevant date.
- (9) In this section—
- (a) “the 1993 Act” means the Leasehold Reform, Housing and Urban Development Act 1993; and
 - (b) “participating tenant”, “nominee purchaser” and “the acquisition by the nominee purchaser” shall be construed in accordance with sections 14, 15 and 38(2) of that Act respectively.”

Marginal Citations

M65 1967 c. 88.

PROSPECTIVE

Local Government Act 1974 (c. 7)

- 6 (1) In subsection (1) of section 25 of the Local Government Act 1974 (authorities subject to investigation), after paragraph (be) there shall be inserted the following paragraph—
- “(bf) the Urban Regeneration Agency;”.
- (2) In subsection (7) of section 26 of that Act (matters subject to investigation) after paragraph (b) there shall be inserted the following paragraph—

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“(ba) where the complaint relates to the Urban Regeneration Agency, any designated area within the meaning of Part III of the Leasehold Reform, Housing and Urban Development Act 1993;”.

(3) In Schedule 5 to that Act (matters not subject to investigation) after paragraph 7 there shall be inserted the following paragraph—

“8 Action taken by the Urban Regeneration Agency which is not action in connection with functions in relation to town and country planning.”

Rent Act 1977 (c. 42)

7 In subsection (1)(b) of section 74 of the Rent Act 1977 (regulations), for the words from “by rent officers” onwards there shall be substituted the words—

“(i) by rent officers under this Act; and
(ii) by rent assessment committees whether under this Act or otherwise; and”.

PROSPECTIVE

Derelict Land Act 1982 (c. 42)

8 In subsection (5) of section 1 of the Derelict Land Act 1982 (powers of Secretary of State), in the definition of “the prescribed percentage”, for paragraphs (b) and (c) there shall be substituted the following paragraph—

“(b) in any other case, 80 per cent. or such other percentage as may be prescribed by order made by the Secretary of State with the consent of the Treasury.”

National Heritage Act 1983 (c. 47)

9 After subsection (2A) of section 33 of the National Heritage Act 1983 (general functions of the Historic Buildings and Monuments Commission for England) there shall be inserted the following subsection—

“(2B) In relation to England, the Commission may make, or join in the making of, applications under section 73(1) of the Leasehold Reform, Housing and Urban Development Act 1993, and may exercise, or participate in the exercise of, any rights or powers conferred by a scheme approved under section 70 of that Act.”

Housing Act 1985 (c. 68)

10 In subsection (3) of section 101 of the Housing Act 1985 (rent not to be increased on account of tenant’s improvements), for paragraph (a) there shall be substituted the following paragraph—

“(a) a person in whom the tenancy was vested, or to whom the tenancy was disposed of, under section 89 (succession to periodic tenancy) or section 90 (devolution of term certain) on the death of the tenant or in the course of the administration of his estate;”.

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- 11 In subsection (2) of section 130 of that Act (reduction of discount where previous discount given), after paragraph (aa) there shall be inserted the following paragraph—
- “(ab) in pursuance of the provision required by paragraphs 3 to 5 or paragraph 7 of Schedule 6A (redemption of landlord’s share), or”.
- 12 For subsection (3) of section 140 of that Act (landlord’s first notice to complete) there shall be substituted the following subsection—
- “(3) A notice under this section shall not be served earlier than twelve months after—
- (a) the service of the landlord’s notice under section 125 (notice of purchase price and other matters), or
- (b) where a notice has been served under section 146 (landlord’s notice admitting or denying right to acquire on rent to mortgage terms), the service of that notice.”
- 13 (1) Immediately before section 153A of that Act (tenant’s notices of delay) there shall be inserted the following italic cross heading—
- “Tenant’s sanction for landlord’s delays”.*
- (2) In subsection (1) of that section—
- (a) in paragraph (e), for the words “right to be granted a shared ownership lease” there shall be substituted the words “right to acquire on rent to mortgage terms”; and
- (b) for the words “any of the cases in paragraphs (a) to (d)” there shall be substituted the words “either of the cases in paragraphs (a) and (b)”.
- (3) In subsection (3) of that section—
- (a) for the words “right to be granted a shared ownership lease” there shall be substituted the words “right to acquire on rent to mortgage terms”;
- (b) for the words “any of the cases in paragraphs (a) to (d)” there shall be substituted the words “either of the cases in paragraphs (a) and (b)”;
- (c) for the words “section 125, section 146 or section 147” there shall be substituted the words “or section 125”.
- 14 (1) In subsection (1) of section 153B of that Act (payments of rent attributable to purchase price etc.), for the words “right to be granted a shared ownership lease” there shall be substituted the words “right to acquire on rent to mortgage terms”.
- (2) In subsection (2) of that section, for the words “any of paragraphs (c) to (e)” there shall be substituted the words “paragraph (d) or (e)”.
- (3) In subsection (3) of that section, for the words “the tenant’s initial contribution for the grant of a shared ownership lease” there shall be substituted the words “the tenant’s initial payment”.
- 15 In subsection (2) of section 158 of that Act (consideration for reconveyance or surrender under section 157), after paragraph (a) there shall be inserted the following paragraph—
- “(aa) any covenant required by paragraph 1 of Schedule 6A (obligation to redeem landlord’s share where conveyance or grant executed in pursuance of right to acquire on rent to mortgage terms), and”.

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- 16 (1) In subsection (1) of section 164 of that Act (Secretary of State’s general power to intervene), for the words “right to be granted a shared ownership lease” there shall be substituted the words “right to acquire on rent to mortgage terms”.
- (2) In subsection (4) of that section, for the words “the right to a mortgage or the right to be granted a shared ownership lease” there shall be substituted the words “or the right to acquire on rent to mortgage terms”.
- (3) In subsection (5) of that section, for the words “the right to a mortgage and the right to be granted a shared ownership lease” there shall be substituted the words “and the right to acquire on rent to mortgage terms”.
- 17 In subsection (1) of section 167 of that Act (power to give directions as to covenants and conditions), after paragraph (b) there shall be inserted the words “or
- (c) in the case of conveyances or grants executed in pursuance of the right to acquire on rent to mortgage terms, the conveyances or grants would not conform with Schedule 6A,”.
- 18 In subsection (2) of section 170 of that Act (power to give assistance in connection with legal proceedings), for the words “right to be granted a shared ownership lease” there shall be substituted the words “right to acquire on rent to mortgage terms”.
- 19 In subsection (2) of section 171C of that Act (modifications of Part V in relation to preserved right), for the words “right to be granted a shared ownership lease” there shall be substituted the words “right to acquire on rent to mortgage terms”.
- 20 (1) In subsection (2) of section 177 of that Act (errors and omissions in notices), for the words “right to be granted a shared ownership lease” there shall be substituted the words “right to acquire on rent to mortgage terms”.
- (2) In subsection (3) of that section, for the entries relating to section 147 and paragraph 1(3) of Schedule 8 there shall be substituted the following entry—
- “section 146 (landlord’s notice admitting or denying right to acquire on rent to mortgage terms).”
- 21 For section 178 of that Act there shall be substituted the following section—
- “178 Costs.**
- An agreement between the landlord and a tenant claiming to exercise—
- (a) the right to buy,
- (b) the right to acquire on rent to mortgage terms, or
- (c) any such right as is mentioned in paragraph 2(1) or 6(1) of Schedule 6A (redemption of landlord’s share: right to make final or interim payment),
- is void in so far as it purports to oblige the tenant to bear any part of the costs incurred by the landlord in connection with the tenant’s exercise of that right.”
- 22 In subsection (1) of section 179 of that Act (provisions restricting right to buy etc. of no effect), for the words “right to be granted a shared ownership lease” there shall be substituted the words “right to acquire on rent to mortgage terms”.
- 23 In subsection (1) of section 181 of that Act (jurisdiction of county court), for the words “a shared ownership lease granted in pursuance of this Part” there shall be

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substituted the words “ a conveyance or grant executed in pursuance of the right to acquire on rent to mortgage terms ”.

24 (1) In subsection (2) of section 184 of that Act (land let with or used for purposes of dwelling-house), for the words “right to be granted a shared ownership lease” there shall be substituted the words “ right to acquire on rent to mortgage terms ”.

(2) In subsection (3) of that section, for the words “right to be granted a shared ownership lease” there shall be substituted the words “ right to acquire on rent to mortgage terms ”.

25 In section 188 of that Act (index of defined expressions: Part V), at the appropriate places in alphabetical order there shall be inserted the following entries—

“district valuer	section 622”
“final payment	paragraph 1 of Schedule 6A”
“initial payment and interim payment	section 143B and paragraph 6 of Schedule 6A”
“landlord’s share	section 148 and paragraph 7 of Schedule 6A”
“minimum initial payment and maximum initial payment	section 143B”
“prescribed	section 614”
“right to acquire on rent to mortgage terms	section 143”.

Landlord and Tenant Act 1987 (c. 31)

26 In subsection (2) of section 4 of the Landlord and Tenant Act 1987 (relevant disposals), after paragraph (d) there shall be inserted the following paragraph—

“(da) a disposal of any freehold or leasehold interest in pursuance of Chapter I of Part I of the Leasehold Reform, Housing and Urban Development Act 1993;”.

27 In subsection (2) of section 13 of that Act (determination by rent assessment committees of questions relating to purchase notices), for the words from “be” to “particulars,” there shall be substituted the words “ comply with such requirements (if any) as to the form of, or the particulars to be contained in, any such application ”.

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PROSPECTIVE

Town and Country Planning Act 1990 (c. 8)

28 In subsection (5)(a) of section 1 of the Town and Country Planning Act 1990 (subsections (1) to (4) of that section have effect subject to sections 5 to 8), for “8” there shall be substituted “ 8A ”.

29 After section 8 of that Act (local planning authority in housing action area) there shall be inserted the following section—

“8A The Urban Regeneration Agency.

(1) Where a designation order under section 170 of the Leasehold Reform, Housing and Urban Development Act 1993 (power to make designation orders) makes such provision as is mentioned in subsection (1) of section 171 of that Act (Agency as local planning authority), the Urban Regeneration Agency shall be the local planning authority for such area as may be specified in the order in place of any authority who would otherwise be the local planning authority for that area for such purposes and in relation to such kinds of development as may be so specified.

(2) Where such an order makes such provision as is mentioned in subsection (3)(a) of section 171 of that Act, the Urban Regeneration Agency shall have the functions specified in the order for such area as may be so specified in place of any authority (except the Secretary of State) who would otherwise have them in that area.”

Planning (Listed Buildings and Conservation Areas) Act 1990 (c. 9)

30 (1) In subsection (1) of section 72 of the Planning (Listed Buildings and Conservation Areas) Act 1990 (general duty as respects conservation areas in exercise of planning functions), for the words “powers under” there shall be substituted the words “functions under or by virtue of”.

(2) In subsection (2) of that section there shall be added at the end “ and sections 70 and 73 of the Leasehold Reform, Housing and Urban Development Act 1993 ”.

PROSPECTIVE

31 In paragraphs 2 and 4 of Schedule 4 to that Act (further provisions as to exercise of functions by different authorities), for the words “and 8” there shall be substituted the words “ 8 and 8A ”.

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PROSPECTIVE

F18 ...

Textual Amendments

F18 Sch. 21 para. 32 and cross-heading repealed (1.12.2008) by [Housing and Regeneration Act 2008 \(c. 17\)](#), s. 325(1), [Sch. 16](#); [S.I. 2008/3068](#), art. 5, Sch. (with arts. 6-13)

F18³²

SCHEDULE 22

Section 187(2).

REPEALS

Extent Information

E2 [Sch. 22](#) does not extend to Northern Ireland except for the repeals in the [House of Commons Disqualification Act 1975 \(c. 24, SIF 89\)](#) and the [Northern Ireland Assembly Disqualification Act 1975 \(c. 25, SIF 29:3\)](#) see [s. 188\(7\)](#).

Commencement Information

I20 [Sch. 22](#) partly in force; [Sch. 22](#) partly in force at Royal Assent see [s. 188\(2\)](#); [Sch. 22](#) partly in force at 2.9.1993, 27.9.1993, 11.10.1993, 1.11.1993 and 10.11.1993 in so far as it relates to certain repeals (and subject to the transitional provisions and savings in Sch. 1 to [S.I. 1993/2134](#)) by [S.I. 1993/2134](#), arts. 3-5, [Schs. 1,2](#); [S.I. 1993/2163](#), art. 2, [Sch. 1](#); [S.I. 1993/2762](#), art. 3; [S.I. 1994/935](#), art. 3

Chapter	Short title	Extent of repeal
9 & 10 Eliz. 2. c. 33.	The Land Compensation Act 1961.	In section 23(3), the word “or” at the end of paragraph (b).
1975 c. 24.	The House of Commons Disqualification Act 1975.	In Schedule 1, in Part II, the entry relating to the English Industrial Estates Corporation.
1975 c. 25.	The Northern Ireland Assembly Disqualification Act 1975.	In Schedule 1, in Part II, the entry beginning “The Industrial Estates Corporations”.
1980 c. 51.	The Housing Act 1980.	In section 141, “3,”. In Schedule 21, paragraph 3.
1980 c. 65.	The Local Government, Planning and Land Act 1980.	Section 99A(2).

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		Section 165(3).
1981 c. 13.	The English Industrial Estates Corporation Act 1981.	The whole Act.
1982 c. 52.	The Industrial Development Act 1982.	In section 15(1), paragraph (d) and the word “and” immediately preceding it. In Part II of Schedule 2, paragraph 17.
1983 c. 29.	The Miscellaneous Financial Provisions Act 1983.	In Schedule 2, the entry relating to the English Industrial Estates Corporation Act 1981.
1985 c. 25.	The Industrial Development Act 1985.	Sections 1 to 4.
1985 c. 68.	The Housing Act 1985.	Section 6(2). Section 27C. Section 124(3). Section 128(6). Sections 132 to 135. In section 137, in subsection (1), the words “or the right to a mortgage” and, in subsection (2), paragraph (b). In section 138(1), the words “and to the amount to be left outstanding or advanced on the security of the dwelling-house”. Section 139(3). In section 140(5), the words “and to the amount to be left outstanding or advanced on the security of the dwelling-house”. Section 142. In section 153A(1), paragraphs (c) and (d). In section 153B(1), paragraph (c). Section 164(6). Section 166(6).

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In section 169(3), paragraph (b) and the word “and” immediately preceding that paragraph.

In section 171C(2), paragraph (b).

In section 171H, in subsection (1), the words “or the right to a mortgage” and, in subsection (2), paragraph (b).

In section 177, in subsection (2)(b) the words “or the Corporation” and in subsection (3), the entries relating to section 135 and paragraph 5 of Schedule 9.

In section 180, the words “the Corporation” and “Corporation”.

In section 181(1), the words “and paragraph 11 of Schedule 8”.

In section 182(1), the words “or the right to a mortgage”.

In section 187, the definition of “total share”.

In section 188, the entries beginning “additional share and additional contribution”, “effective discount”, “full mortgage”, “initial share and initial contribution”, “prescribed percentage”, “right to be granted a shared ownership lease”, “right to further advances”, “right to a mortgage” and “total share”.

In Schedule 6, in paragraphs 16B(4) and 16C(4), paragraph (c) and the word “and” immediately preceding that paragraph.

Schedules 7 to 9.

1985 c. 71.

The Housing (Consequential Provisions) Act 1985.

In section 6(3), “12”.

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		In Schedule 2, paragraph 12.
1986 c. 63.	The Housing and Planning Act 1986.	In Schedule 5, paragraph 5.
1987 c. 26.	The Housing (Scotland) Act 1987.	In section 17, in subsection (1), the words “and exercised by”.
		In section 61, in subsection (10)(b), subparagraphs (i) and (ii).
		In section 62, in subsection (3)(b), the words “continuous” and “immediately”.
1987 c. 31.	The Landlord and Tenant Act 1987.	Section 25(3).
		In section 29(2), the words from “and (c)” onwards.
1988 c. 50.	The Housing Act 1988.	Section 41(1).
		In section 69(2), the words from “on grounds” onwards.
		In section 79(2)(b), the words “in accordance with section 84 below”.
		In Schedule 9, paragraph 12(2).
1989 c. 42.	The Local Government and Housing Act 1989.	In section 80(1), the words from “and for any year” onwards.
		Section 164.
		In Schedule 11, paragraph 51.
1990 c. 11.	The Planning (Consequential Provisions) Act 1990.	In Schedule 2, paragraph 47.

Status:

Point in time view as at 01/12/1993.

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