

*Status: Point in time view as at 01/10/1996.*

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## SCHEDULES

### SCHEDULE 11

#### COMPENSATION FOR POSTPONEMENT OF TERMINATION IN CONNECTION WITH INEFFECTIVE CLAIMS

##### *Claims under Part I of the Leasehold Reform Act 1967*

- 1 (1) After section 27 of the <sup>M1</sup>Leasehold Reform Act 1967 there shall be inserted—

**“27A Compensation for postponement of termination in connection with ineffective claims.**

- (1) This section applies where, on or after 15th January 1999—
- (a) a tenant of any property makes a claim to acquire the freehold or an extended lease of it, and
  - (b) the claim is not made at least two years before the term date of the tenancy in respect of which the claim is made (“the existing tenancy”).
- (2) The tenant shall be liable to pay compensation if the claim is not effective and—
- (a) the making of the claim caused a notice served under paragraph 4(1) of Schedule 10 to the <sup>M2</sup>Local Government and Housing Act 1989 to cease to have effect and the date on which the claim ceases to have effect is later than four months before the termination date specified in the notice,
  - (b) the making of the claim prevented the service of an effective notice under paragraph 4(1) of Schedule 10 to the Local Government and Housing Act 1989 (but did not cause a notice served under that provision to cease to have effect) and the date on which the claim ceases to have effect is a date later than six months before the term date of the tenancy, or
  - (c) the existing tenancy is continued under paragraph 3(1) of Schedule 3 to this Act by virtue of the claim.
- (3) Compensation under subsection (2) above shall become payable at the end of the appropriate period and be the right of the person who is the tenant’s immediate landlord at that time.
- (4) The amount which the tenant is liable to pay under subsection (2) above shall be equal to the difference between—
- (a) the rent for the appropriate period under the existing tenancy, and
  - (b) the rent which might reasonably be expected to be payable for that period were the property to which the existing tenancy relates let

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for a term equivalent to that period on the open market by a willing landlord on the following assumptions—

- (i) that no premium is payable in connection with the letting,
- (ii) that the letting confers no security of tenure, and
- (iii) that, except as otherwise provided by this paragraph, the letting is on the same terms as the existing tenancy.

- (5) For the purposes of subsection (2) above, a claim to acquire the freehold or an extended lease is not effective if it ceases to have effect for any reason other than—
  - (a) the acquisition in pursuance of the claim of the interest to which it relates, or
  - (b) the lapsing of the claim under any provision of this Act excluding the tenant's liability for costs.
- (6) For the purposes of subsections (3) and (4) above, the appropriate period is—
  - (a) in a case falling within paragraph (a) of subsection (2) above, the period—
    - (i) beginning with the termination date specified in the notice mentioned in that paragraph, and
    - (ii) ending with the earliest date of termination which could have been specified in a notice under paragraph 4(1) of Schedule 10 to the <sup>M3</sup>Local Government and Housing Act 1989 served immediately after the date on which the claim ceases to have effect, or, if the existing tenancy is terminated before then, with the date of its termination;
  - (b) in a case falling within paragraph (b) of subsection (2) above, the period—
    - (i) beginning with the later of six months from the date on which the claim is made and the term date of the existing tenancy, and
    - (ii) ending six months after the date on which the claim ceases to have effect, or, if the existing tenancy is terminated before then, with the date of its termination; and
  - (c) in a case falling within paragraph (c) of subsection (2) above, the period for which the existing tenancy is continued under paragraph 3(1) of Schedule 3 to this Act.
- (7) For the purposes of this section—
  - (a) references to a claim to acquire the freehold or an extended lease shall be taken as references to a notice of a person's desire to acquire it under Part I of this Act and as including a claim made by a tenant not entitled to acquire it, and
  - (b) references to the date on which a claim ceases to have effect shall, in relation to a notice which is not a valid notice, be taken as references to the date on which the notice is set aside by the court or withdrawn or would, if valid, cease to have effect, that date being taken, where the notice is set aside, or would (if valid) cease to have effect, in consequence of a court order, to be the date when the order becomes final.

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## **27B Modification of section 27A where change in immediate reversion.**

- (1) Where a tenant's liability to pay compensation under section 27A above relates to a period during which there has been a change in the interest immediately expectant on the determination of his tenancy, that section shall have effect with the following modifications.
- (2) For subsections (3) and (4) there shall be substituted—
  - (“) Compensation under subsection (2) above shall become payable at the end of the appropriate period and there shall be a separate right to compensation in respect of each of the interests which, during that period, have been immediately expectant on the determination of the existing tenancy.
- (4) Compensation under subsection (2) above shall—
  - (a) in the case of the interest which is immediately expectant on the determination of the existing tenancy at the end of the appropriate period, be the right of the person in whom that interest is vested at that time, and
  - (b) in the case of an interest which ceases during the appropriate period to be immediately expectant on the determination of the existing tenancy, be the right of the person in whom the interest was vested immediately before it ceased to be so expectant.
- (4A) The amount which the tenant is liable to pay under subsection (2) above in respect of any interest shall be equal to the difference between—
  - (a) the rent under the existing tenancy for the part of the appropriate period during which the interest was immediately expectant on the determination of that tenancy, and
  - (b) the rent which might reasonably be expected to be payable for that part of that period were the property to which the existing tenancy relates let for a term equivalent to that part of that period on the open market by a willing landlord on the following assumptions—
    - (i) that no premium is payable in connection with the letting,
    - (ii) that the letting confers no security of tenure, and
    - (iii) that, except as otherwise provided by this paragraph, the letting is on the same terms as the existing tenancy.”
- (3) In subsection (6), for “(3) and (4)” there shall be substituted “(3) to (4A)”.
- (2) In section 21(1) of that Act (matters to be determined by leasehold valuation tribunal), after paragraph (c) there shall be inserted—
  - “(ca) the amount of any compensation payable under section 27A;”.

### **Marginal Citations**

- M1** 1967 c. 88.  
**M2** 1989 c. 42.  
**M3** 1989 c. 42.

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