

*Status: Point in time view as at 01/01/2003.*

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## SCHEDULES

### SCHEDULE 1

Section 7.

#### REGISTERED SOCIAL LANDLORDS: REGULATION

#### PART I

#### CONTROL OF PAYMENTS TO MEMBERS, &C

#### *Payments by way of gift, dividend or bonus*

- 1 (1) A registered social landlord shall not make a gift or pay a sum by way of dividend or bonus to—
- (a) a person who is or has been a member of the body,
  - (b) a person who is a member of the family of a person within paragraph (a), or
  - (c) a company of which a person within paragraph (a) or (b) is a director,
- except as permitted by this paragraph.
- (2) The following are permitted—
- (a) the payment of a sum which, in accordance with the constitution or rules of the body, is paid as interest on capital lent to the body or subscribed by way of shares in the body;
  - (b) the payment by a fully mutual housing association to a person who has ceased to be a member of the association of a sum which is due to him either under his tenancy agreement with the association or under the terms of the agreement under which he became a member of the association.
- (3) Where an industrial and provident society or a company registered under the <sup>M1</sup>Companies Act 1985 pays a sum or makes a gift in contravention of this paragraph, the society or company may recover the sum or the value of the gift, and proceedings for its recovery shall be taken if the [<sup>F1</sup>Relevant Authority] so directs.

#### Textual Amendments

- F1** Words in Pt. I substituted (1.11.1998) by 1998 c. 38, s. 140, Sch. 16 para. 82(1)(2) (with ss. 139(2), 141(1), 143(2)); S.I. 1998/2244, art.5.

#### Marginal Citations

- M1** 1985 c. 6.

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*Payments and benefits to officers and employees, &c.*

- 2 (1) A registered social landlord which is an industrial and provident society or a company registered under the Companies Act 1985 shall not make a payment or grant a benefit to—
- (a) an officer or employee of the society or company,
  - (b) a person who at any time within the preceding twelve months has been a person within paragraph (a),
  - (c) a close relative of a person within paragraph (a) or (b), or
  - (d) a business trading for profit of which a person falling within paragraph (a), (b) or (c) is a principal proprietor or in the management of which such a person is directly concerned,
- except as permitted by this paragraph.
- (2) The following are permitted—
- (a) payments made or benefits granted to an officer or employee of the society or company under his contract of employment with the society or company;
  - (b) the payment of remuneration or expenses to an officer of the society or company who does not have a contract of employment with the society or company;
  - (c) any such payment as may be made in accordance with paragraph 1(2) (interest payable in accordance with the rules and certain sums payable by a fully mutual housing association to a person who has ceased to be a member);
  - (d) the grant or renewal of a tenancy by a co-operative housing association;
  - (e) where a tenancy of a house has been granted to, or to a close relative of, a person who later became an officer or employee, the grant to that tenant of a new tenancy whether of the same or another house;
  - (f) payments made or benefits granted in accordance with any determination made by the [<sup>F2</sup>Relevant Authority].
- (3) A determination for the purposes of sub-paragraph (2)(f) may specify the class or classes of case in which a payment may be made or benefit granted and specify the maximum amount.
- (4) Where a society or company pays a sum or grants a benefit in contravention of this paragraph, the society or company may recover the sum or value of the benefit; and proceedings for its recovery shall be taken if the [<sup>F2</sup>Relevant Authority] so directs.

**Textual Amendments**

- F2** Words in Pt. 1 substituted (1.11.1998) by 1998 c. 38, s. 140, Sch. 16 para. 82(1)(2) (with ss. 139(2), 141(1), 143(2)); S.I. 1998/2244, art.5.

**Commencement Information**

- I1** Sch. 1 para. 2 wholly in force at 1.10.1996; Sch. 1 para. 2 not in force at Royal Assent; Sch. 1 para. 2(2)(f) in force for certain purposes at 1.8.1996 by S.I. 1996/2048, art. 3; Sch. 1 para. 2 in force at 1.10.1996 to the extent that it is not already in force by S.I. 1996/2404, art. 3 (subject to the transitional provisions and savings in the Sch. of that S.I.)

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*Maximum amounts payable by way of fees, expenses, &c.*

- 3 (1) The [<sup>F3</sup>Relevant Authority] may from time to time specify the maximum amounts which may be paid by a registered social landlord which is an industrial and provident society or a company registered under the <sup>M2</sup>Companies Act 1985—
- (a) by way of fees or other remuneration, or by way of expenses, to a member of the society or company who is not an officer or employee of the society or company, or
  - (b) by way of remuneration or expenses to an officer of the society or company who does not have a contract of employment with the society or company.
- (2) Different amounts may be so specified for different purposes.
- (3) Where a society or company makes a payment in excess of the maximum permitted under this paragraph, the society or company may recover the excess, and proceedings for its recovery shall be taken if the [<sup>F3</sup>Relevant Authority] so directs.

**Textual Amendments**

**F3** Words in Pt. 1 substituted (1.11.1998) by 1998 c. 38, s. 140, Sch. 16 para. 82(1)(2) (with ss. 139(2), 141(1), 143(2)); S.I. 1998/2244, art.5.

**Commencement Information**

**I2** Sch. 1 para. 3 wholly in force 1.10.1996; Sch. 1 para. 3 not in force at Royal Assent see s. 232(3); Sch. 1 para. 3(1)(2) in force at 1.8.1996 by 1996/2048, art. 2(1); Sch. 1 para. 3 in force at 1.10.1996 to the extent it is not already in force, by S.I. 1996/2402, art. 3 (subject to the transitional provisions in the Sch. to that S.I.)

**Marginal Citations**

**M2** 1985 c. 6.

## PART II

### CONSTITUTION, CHANGE OF RULES, AMALGAMATION AND DISSOLUTION

*General power to remove director, trustee, &c.*

- 4 (1) The [<sup>F4</sup>Relevant Authority] may, in accordance with the following provisions, by order remove—
- (a) a director or trustee of a registered social landlord which is a registered charity,
  - (b) a committee member of a registered social landlord which is an industrial and provident society, or
  - (c) a director of a registered social landlord which is a company registered under the Companies Act 1985.
- (2) The [<sup>F4</sup>Relevant Authority] may make an order removing any such person if—
- (a) he has been adjudged bankrupt or has made an arrangement with his creditors;

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- (b) he is subject to a disqualification order [<sup>F5</sup>or disqualification undertaking] under the <sup>M3</sup>Company Directors Disqualification Act 1986 [<sup>F6</sup>or to a disqualification order under Part II of the companies (Northern Ireland) order 1989];
  - (c) he is subject to an order under section 429(2) of the <sup>M4</sup>Insolvency Act 1986 (failure to pay under county court administration order);
  - (d) he is disqualified under section 72 of the <sup>M5</sup>Charities Act 1993 from being a charity trustee;
  - (e) he is incapable of acting by reason of mental disorder;
  - (f) he has not acted; or
  - (g) he cannot be found or does not act and his absence or failure to act is impeding the proper management of the registered social landlord's affairs.
- (3) Before making an order the [<sup>F4</sup>Relevant Authority] shall give at least 14 days' notice of its intention to do so to the person whom it intends to remove, and to the registered social landlord.
- (4) That notice may be given by post, and if so given to the person whom the [<sup>F4</sup>Relevant Authority] intend to remove may be addressed to his last known address in the United Kingdom.
- (5) A person who is ordered to be removed under this paragraph may appeal against the order to the High Court.

#### Textual Amendments

- F4** Words in Pt. I substituted (1.11.1998) by 1998 c. 38, s. 140, **Sch. 16 para. 82(1)(2)** (with ss. 139(2), 141(1), 143(2)); S.I. 1998/2244, **art. 5**.
- F5** Words in Sch. 1 para. 4(2)(b) inserted (2.4.2001) by 2000 c. 39, s. 8, **Sch. 4 Pt. II para. II para. 21**; S.I. 2001/766, **art. 2(1)(a)**
- F6** Words in Sch. 1 para. 4(2)(b) inserted (2.4.2001) by 2000 c. 39, s. 8, **Sch. 4 Pt. II para. 21**; S.I. 2001/766, **art. 2(1)(a)**

#### Marginal Citations

- M3** 1986 c. 46.  
**M4** 1986 c. 45.  
**M5** 1993 c. 10.

#### *Restriction on power of removal in case of registered charity*

- 5 (1) The [<sup>F7</sup>Relevant Authority] may make an order under paragraph 4 removing a director or trustee of a registered charity only if the charity has, at any time before the power is exercised—
- (a) received financial assistance under section 24 of the <sup>M6</sup>Local Government Act 1988 (assistance for privately let housing accommodation),
  - (b) had property transferred to it on a qualifying disposal under section 135 of the <sup>M7</sup>Leasehold Reform, Housing and Urban Development Act 1993, or
  - (c) received a grant or loan under any of the following provisions.

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- (2) The provisions are—
- section 18 of this Act (social housing grants),
  - section 22 of this Act or section 58 of the <sup>M8</sup>Housing Associations Act 1985 (grants or loans by local authorities),
  - section 50 of the <sup>M9</sup>Housing Act 1988, section 41 of the Housing Associations Act 1985 or any enactment replaced by that section (housing association grant),
  - section 51 of the Housing Act 1988 or section 54 or 55 of the Housing Associations Act 1985 (revenue deficit grant or hostel deficit grant),
  - section 79 of the Housing Associations Act 1985 (loans by Housing Corporation),
  - section 31 of the <sup>M10</sup>Housing Act 1974 (management grants), or
  - any enactment mentioned in paragraph 2 or 3 of Schedule 1 to the Housing Associations Act 1985 (pre-1974 grants and certain loans).

#### Textual Amendments

- F7** Words in Pt. I substituted (1.11.1998) by 1998 c. 38, s. 140, **Sch. 16 para. 82(1)(2)** (with ss. 139(2), 141(1), 143(2)); S.I. 1998/2244, **art.5**.

#### Marginal Citations

- M6** 1988 c. 9.  
**M7** 1993 c. 28.  
**M8** 1985 c. 69.  
**M9** 1988 c. 50.  
**M10** 1974 c. 44.

#### *Registered charity: power to appoint new director or trustee*

- 6 (1) The [<sup>F8</sup>Relevant Authority] may by order appoint a person to be a director or trustee of a registered social landlord which is a registered charity—
- (a) in place of a person removed by the [<sup>F8</sup>Relevant Authority],
  - (b) where there are no directors or no trustees, or
  - (c) where the [<sup>F8</sup>Relevant Authority] is of the opinion that it is necessary for the proper management of the charity's affairs to have an additional director or trustee.

The power conferred by paragraph (c) may be exercised notwithstanding that it will cause the maximum number of directors or trustees permissible under the charity's constitution to be exceeded.

- (2) The [<sup>F8</sup>Relevant Authority] shall only exercise its power under sub-paragraph (1) if—
- (a) the charity has, at any time before the power is exercised, received financial assistance, had property transferred to it, or received a grant or loan as mentioned in paragraph 5, and
  - (b) the [<sup>F8</sup>Relevant Authority] has consulted the Charity Commissioners.
- (3) A person may be so appointed notwithstanding any restrictions on appointment in the charity's constitution or rules.

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- (4) A person appointed under this paragraph shall hold office for such period and on such terms as the [<sup>F8</sup>Relevant Authority] may specify; and on the expiry of the appointment the [<sup>F8</sup>Relevant Authority] may renew the appointment for such period as it may specify.

This does not prevent a person appointed under this paragraph from retiring in accordance with the charity's constitution or rules.

- (5) A person appointed under this paragraph as director or trustee of a registered charity is entitled—
- (a) to attend, speak and vote at any general meeting of the charity and to receive all notices of and other communications relating to any such meeting which a member is entitled to receive,
  - (b) to move a resolution at any general meeting of the charity, and
  - (c) to require a general meeting of the charity to be convened within 21 days of a request to that effect made in writing to the directors or trustees.

#### Textual Amendments

**F8** Words in Pt. I substituted (1.11.1998) by 1998 c. 38, s. 140, **Sch. 16 para. 82(1)(2)** (with ss. 139(2), 141(1), 143(2)); S.I. 1998/2244, **art.5**.

*Company: power to appoint new director*

- 7 (1) The [<sup>F9</sup>Relevant Authority] may by order appoint a person to be a director of a registered social landlord which is a company registered under the <sup>M11</sup>Companies Act 1985—
- (a) in place of a director removed by the [<sup>F9</sup>Relevant Authority],
  - (b) where there are no directors, or
  - (c) where the [<sup>F9</sup>Relevant Authority] is of the opinion that it is necessary for the proper management of the company's affairs to have an additional director.
- (2) A person may be so appointed whether or not he is a member of the company and notwithstanding anything in the company's articles of association.
- (3) Where a person is appointed under this paragraph—
- (a) he shall hold office for such period and on such terms as the [<sup>F9</sup>Relevant Authority] may specify, and
  - (b) on the expiry of the appointment the [<sup>F9</sup>Relevant Authority] may renew the appointment for such period as it may specify.

This does not prevent a person from retiring in accordance with the company's articles of association.

- (4) A person appointed under this paragraph is entitled—
- (a) to attend, speak and vote at any general meeting of the company and to receive all notices of and other communications relating to any general meeting which a member of the company is entitled to receive,
  - (b) to move a resolution at any general meeting of the company, and

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- (c) to require an extraordinary general meeting of the company to be convened within 21 days of a request to that effect made in writing to the directors of the company.

#### Textual Amendments

**F9** Words in Pt. I substituted (1.11.1998) by 1998 c. 38, s. 140, **Sch. 16 para. 82(1)(2)** (with ss. 139(2), 141(1), 143(2)); S.I. 1998/2244, **art.5**.

#### Marginal Citations

**M11** 1985 c. 6.

#### *Industrial and provident society: power to appoint new committee member*

- 8 (1) The [<sup>F10</sup>Relevant Authority] may by order appoint a person to be a committee member of a registered social landlord which is an industrial and provident society—
- (a) in place of a person removed by the [<sup>F10</sup>Relevant Authority],
  - (b) where there are no members of the committee, or
  - (c) where the [<sup>F10</sup>Relevant Authority] is of the opinion that it is necessary for the proper management of the society's affairs to have an additional committee member.

The power conferred by paragraph (c) may be exercised notwithstanding that it will cause the maximum number of committee members permissible under the society's constitution to be exceeded.

- (2) A person may be so appointed whether or not he is a member of the society and, if he is not, notwithstanding that the rules of the society restrict appointment to members.
- (3) A person appointed under this paragraph shall hold office for such period and on such terms as the [<sup>F10</sup>Relevant Authority] may specify; and on the expiry of the appointment the [<sup>F10</sup>Relevant Authority] may renew the appointment for such period as it may specify.

This does not prevent a person appointed under this paragraph from retiring in accordance with the rules of the society.

- (4) A person appointed under this paragraph is entitled—
- (a) to attend, speak and vote at any general meeting of the society and to receive all notices of and other communications relating to any general meeting which a member of the society is entitled to receive,
  - (b) to move a resolution at any general meeting of the society, and
  - (c) to require a general meeting of the society to be convened within 21 days of a request to that effect made in writing to the committee of the society.

#### Textual Amendments

**F10** Words in Pt. I substituted (1.11.1998) by 1998 c. 38, s. 140, **Sch. 16 para. 82(1)(2)** (with ss. 139(2), 141(1), 143(2)); S.I. 1998/2244, **art.5**.

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*Change of rules, &c. by industrial and provident society*

- 9 (1) This paragraph applies to an industrial and provident society whose registration as a social landlord has been recorded by the [<sup>F11</sup>Financial Services Authority].
- (2) Notice shall be sent to the [<sup>F12</sup>Relevant Authority] of any change of the society's name or of the situation of its registered office.
- <sup>F13</sup>(3) .....
- [<sup>F14</sup>(3A) Consent under sub-paragraph (3)—
- (a) if given by the Housing Corporation, shall be given by order under its seal, and
- (b) if given by the Secretary of State, shall be given by order in writing.]
- (4) A copy of that consent shall be sent with the copies of the amendment required by section 10(1) of the <sup>M12</sup>Industrial and Provident Societies Act 1965 to be sent to the [<sup>F11</sup>Financial Services Authority].
- (5) The Industrial and Provident Societies Act 1965 applies in relation to the provisions of this paragraph as if they were contained in section 10 of that Act (amendment of registered rules).

**Textual Amendments**

- F11** Words in Sch. 1 para. 9(1)(4) substituted (1.12.2001) by S.I. 2001/3649, arts. 1, 357(2)
- F12** Words in Pt. I substituted (1.11.1998) by 1998 c. 38, s. 140, Sch. 16 para. 82(1)(2) (with ss. 139(2), 141(1), 143(2)); S.I. 1998/2244, art. 5.
- F13** Words in Sch. 1 para. 9(3) repealed (1.11.1998) by 1998 c. 38, ss. 140, 152, Sch. 16 para. 96(2)(a), Sch. 18 Pt. VI (with ss. 137(1), 139(2), 141(1), 143(2)); S.I. 1998/2244, art. 5.
- F14** Sch. 1 para. 9(3A) inserted (1.11.1998) by 1998 c. 38, s. 140, Sch. 16 para. 96(2)(b) (with ss. 139(2), 141(1), 143(2)); S.I. 1998/2244, art. 5.

**Marginal Citations**

- M12** 1965 c. 12.

*Change of objects by certain charities*

- 10 (1) This paragraph applies to a registered social landlord—
- (a) which is a registered charity and is not a company incorporated under the <sup>M13</sup>Companies Act 1985, and
- (b) whose registration under this Part of this Act has been recorded by the Charity Commissioners in accordance with section 3(3).
- (2) No power contained in the provisions establishing the registered social landlord as a charity, or regulating its purposes or administration, to vary or add to its objects may be exercised without the consent of the Charity Commissioners.

Before giving their consent the Charity Commissioners shall consult the [<sup>F15</sup>Relevant Authority].



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**Textual Amendments**

**F15** Words in Pt. I substituted (1.11.1998) by 1998 c. 38, s. 140, **Sch. 16 para. 82(1)(2)** (with ss. 139(2), 141(1), 143(2)); S.I. 1998/2244, **art.5**.

**Marginal Citations**

**M13** 1985 c. 6.

*Change of memorandum or articles of association of company*

- 11 (1) This paragraph applies to a company registered under the Companies Act 1985 (including such a company which is also a registered charity) whose registration as a social landlord has been recorded by the registrar of companies.
- (2) Notice shall be sent to the [<sup>F16</sup>Relevant Authority] of any change of the company's name or of the address of its registered office.
- <sup>F17</sup>(3) . . . . .
- [<sup>F18</sup>(3A) Consent under sub-paragraph (3)—
- (a) if given by the Housing Corporation, shall be given by order under its seal, and
- (b) if given by the Secretary of State, shall be given by order in writing.]
- (4) A copy of that consent shall be sent with any copy of the alterations required to be sent to the registrar of companies under the Companies Act 1985.

**Textual Amendments**

**F16** Words in Pt. I substituted (1.11.1998) by 1998 c. 38, s. 140, **Sch. 16 para. 82(1)(2)** (with ss. 139(2), 141(1), 143(2)); S.I. 1998/2244, **art.5**.

**F17** Words in Sch. 1 para. 11(3) repealed (1.11.1998) by 1998 c. 38, ss. 140, 152, **Sch. 16 para. 96(2)(a)**, **Sch. 18 Pt.VI** (with ss. 137(1), 139(2), 141(1), 143(2)); S.I. 1998/2244, **art.5**.

**F18** Sch. 1 para. 11(3A) inserted (1.11.1998) by 1998 c. 38, s. 140, **Sch. 16 para. 96(2)(b)** (with ss. 139(2), 141(1), 143(2)); S.I. 1998/2244, **art.5**.

*Amalgamation and dissolution &c. of industrial and provident society*

- 12 (1) This paragraph applies to an industrial and provident society whose registration as a social landlord has been recorded by the [<sup>F19</sup>Financial Services Authority].
- (2) The [<sup>F20</sup>Financial Services Authority] shall not register a special resolution which is passed for the purposes of—
- (a) section 50 of the <sup>M14</sup>Industrial and Provident Societies Act 1965 (amalgamation of societies),
- (b) section 51 of that Act (transfer of engagements between societies), or
- (c) section 52 of that Act (power of a society to convert itself into, amalgamate with or transfer its engagements to a company registered under the Companies Act 1985),

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unless, together with the copy of the resolution, there is sent to [F21]it] a copy of the [F22Relevant Authority’s] consent to the amalgamation, transfer or conversion.

- (3) Any new body created by the amalgamation or conversion or, in the case of a transfer of engagements, the transferee, shall be deemed to be registered as a social landlord forthwith upon the amalgamation, conversion or transfer taking effect.
- (4) If the society resolves by special resolution that it be wound up voluntarily under the M15Insolvency Act 1986, the resolution has no effect unless—
- (a) before the resolution was passed the [F22Relevant Authority] gave its consent to its passing, and
  - (b) a copy of the consent is forwarded to the [F23Financial Services Authority] together with a copy of the resolution required to be so forwarded in accordance with the Companies Act 1985.
- (5) If the society is to be dissolved by instrument of dissolution, the [F24Financial Services Authority] shall not—
- (a) register the instrument in accordance with section 58(5) of the M16Industrial and Provident Societies Act 1965, or
  - (b) cause notice of the dissolution to be advertised in accordance with section 58(6) of that Act,
- unless together with the instrument there is sent to [F25]it] a copy of the [F22Relevant Authority’s] consent to its making.
- (6) The references in this paragraph to the [F22Relevant Authority’s] consent [F26are—
- (a) if it is given by the Housing Corporation, to consent given by order under its seal, and
  - (b) if it is given by the Secretary of State, to consent given by order in writing.]

#### Textual Amendments

- F19** Words in Sch. 1 para. 12(1) substituted (1.12.2001) by S.I. 2001/3649, arts. 1, 357(3)(a)
- F20** Words in Sch. 1 para. 12(2) substituted (1.12.2001) by S.I. 2001/3649, arts. 1, 357(3)(b)(i)
- F21** Word in Sch. 1 para. 12(2) substituted (1.12.2001) by S.I. 2001/3649, arts. 1, 357(3)(b)(ii)
- F22** Words in Pt. I substituted (1.11.1998) by 1998 c. 38, s. 140, Sch. 16 para. 82(1)(2) (with ss. 139(2), 141(1), 143(2)); S.I. 1998/2244, art. 5.
- F23** Words in Sch. 1 para. 12(4)(b) substituted (1.12.2001) by S.I. 2001/3649, arts. 1, 357(3)(c)
- F24** Words in Sch. 1 para. 12(5) substituted (1.12.2001) by S.I. 2001/3649, arts. 1, 357(3)(d)(i)
- F25** Word in Sch. 1 para. 12(5) substituted (1.12.2001) by S.I. 2001/3649, arts. 1, 357(3)(d)(ii)
- F26** Sch. 1 para. 12(6)(a)(b) and the word “are” immediately preceding substituted (1.11.1998) by 1998 c. 38, s. 140, Sch. 16 para. 96(3) (with ss. 139(2), 141(1), 143(2)); S.I. 1998/2244, art. 5.

#### Marginal Citations

- M14** 1965 c. 12.
- M15** 1986 c. 45.
- M16** 1965 c. 12.

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*Arrangement, reconstruction, &c. of company*

- 13 (1) This paragraph applies to a company registered under the <sup>M17</sup>Companies Act 1985 whose registration as a social landlord has been recorded by the registrar of companies.
- (2) An order of the court given for the purposes of section 425 of the Companies Act 1985 (compromise or arrangement with creditors or members) is not effective unless the [<sup>F27</sup>Relevant Authority] has given its consent.
- A copy of the consent shall be sent to the registrar of companies along with the office copy of the order delivered to him under that section.
- (3) An order of the court given for the purposes of section 427 of the Companies Act 1985 (transfer of undertaking or property for purposes of reconstruction or amalgamation) is not effective unless the [<sup>F27</sup>Relevant Authority] has given its consent.
- A copy of the consent shall be sent to the registrar of companies along with the office copy of the order delivered to him under that section.
- (4) The registrar of companies shall not register any resolution under section 53 of the Industrial and Provident Societies Act 1965 (conversion of company into industrial and provident society), unless, together with the copy of the resolution, there is sent to him a copy of the [<sup>F27</sup>Relevant Authority's] consent to the conversion.
- (5) Where a director, administrator or liquidator of the company proposes to make a voluntary arrangement with the company's creditors under section 1 of the <sup>M18</sup>Insolvency Act 1986, the arrangement shall not take effect under section 5 (effect of approval by members and creditors) of that Act unless the [<sup>F27</sup>Relevant Authority] has given its consent to the voluntary arrangement.
- (6) If the company resolves by special resolution that it be wound up voluntarily under the Insolvency Act 1986, the resolution has no effect unless—
- before the resolution was passed the [<sup>F27</sup>Relevant Authority] gave its consent to its passing, and
  - a copy of the consent is forwarded to the registrar of companies together with a copy of the resolution required to be so forwarded in accordance with section 380 of the Companies Act 1985.
- (7) The references in this paragraph to the [<sup>F27</sup>Relevant Authority's] consent [<sup>F28</sup>are—
- if it is given by the Housing Corporation, to consent given by order under its seal, and
  - if it is given by the Secretary of State, to consent given by order in writing.]
- (8) Where sub-paragraph (3) or (4) applies, the transferee or, as the case may be, any new body created by the conversion shall be deemed to be registered as a social landlord forthwith upon the transfer or conversion taking effect.

**Textual Amendments**

**F27** Words in Pt. I substituted (L11.1998) by 1998 c. 38, s. 140, **Sch. 16 para. 82(1)(2)** (with ss. 139(2), 141(1), 143(2)); S.I. 1998/2244, **art.5**.

*Status: Point in time view as at 01/01/2003.*

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**F28** Sch. 1 para. 13(7)(a)(b) and the word “are” immediately preceding substituted (1.11.1998) by 1998 c. 38, s. 140, **Sch. 16 para. 96(3)** (with ss. 139(2), 141(1), 143(2)); S.I. 1998/2244, **art.5**.

**Marginal Citations**

**M17** 1985 c. 6.

**M18** 1986 c. 45.

*[<sup>F29</sup>Relevant Authority’s] power to petition for winding up*

**Textual Amendments**

**F29** Words in Pt. I substituted (1.11.1998) by 1998 c. 38, s. 140, **Sch. 16 para. 82(1)(2)** (with ss. 139(2), 141(1), 143(2)); S.I. 1998/2244, **art.5**.

- 14 (1) The [<sup>F30</sup>Relevant Authority] may present a petition for the winding up under the Insolvency Act 1986 of a registered social landlord which is—
- (a) a company incorporated under the Companies Act 1985 (including such a company which is also a registered charity), or
  - (b) an industrial and provident society (to which the winding up provisions of the <sup>M19</sup>Insolvency Act 1986 apply in accordance with section 55(a) of the <sup>M20</sup>Industrial and Provident Societies Act 1965),
- on either of the following grounds.
- (2) The grounds are—
- (a) that the landlord is failing properly to carry out its purposes or objects, or
  - (b) that the landlord is unable to pay its debts within the meaning of section 123 of the Insolvency Act 1986.

**Textual Amendments**

**F30** Words in Pt. I substituted (1.11.1998) by 1998 c. 38, s. 140, **Sch. 16 para. 82(1)(2)** (with ss. 139(2), 141(1), 143(2)); S.I. 1998/2244, **art.5**.

**Marginal Citations**

**M19** 1986 c. 45.

**M20** 1965 c. 12.

*Transfer of net assets on dissolution or winding up*

- 15 (1) This paragraph applies—
- (a) where a registered social landlord which is an industrial and provident society is dissolved as mentioned in section 55(a) or (b) of the Industrial and Provident Societies Act 1965 (winding-up under the Insolvency Act 1986 or by instrument of dissolution), and
  - (b) where a registered social landlord which is a company registered under the <sup>M21</sup>Companies Act 1985 is wound up under the Insolvency Act 1986.
- (2) On such a dissolution or winding-up, so much of the property of the society or company as remains after meeting the claims of its creditors and any other

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liabilities arising on or before the dissolution or winding-up shall be transferred to the [F31Relevant Authority] or, if the [F31Relevant Authority] so directs, to a specified registered social landlord.

The above provision has effect notwithstanding anything in the Industrial and Provident Societies Act 1965, the Companies Act 1985 or the Insolvency Act 1986, or in the rules of the society or, as the case may be, in the memorandum or articles of association of the company.

- (3) In order to avoid the necessity for the sale of land belonging to the registered social landlord and thereby secure the transfer of the land under this paragraph, the [F31Relevant Authority] may, if it appears to it appropriate to do so, make payments to discharge such claims or liabilities as are referred to in sub-paragraph (2).
- (4) Where the registered social landlord which is dissolved or wound up is a charity, the [F31Relevant Authority] may dispose of property transferred to it by virtue of this paragraph only to another registered social landlord—
  - (a) which is also a charity, and
  - (b) the objects of which appear to the [F31Relevant Authority] to be, as nearly as practicable, akin to those of the body which is dissolved or wound up.
- [F32](5) In any other case—
  - (a) the Relevant Authority may dispose of property transferred to it by virtue of this paragraph to a registered social landlord, and
  - (b) the Housing Corporation may dispose of property transferred to it by virtue of this paragraph to any of its subsidiaries.]
  - (6) Where property transferred to the [F31Relevant Authority] by virtue of this paragraph includes land subject to an existing mortgage or charge (whether in favour of the [F31Relevant Authority] or not), the [F31Relevant Authority] may, in exercise of its powers under Part III of the <sup>M22</sup>Housing Associations Act 1985, dispose of the land either—
    - (a) subject to that mortgage or charge, or
    - (b) subject to a new mortgage or charge in favour of the [F31Relevant Authority] securing such amount as appears to the [F31Relevant Authority] to be appropriate in the circumstances.

#### Textual Amendments

- F31** Words in Pt. I substituted (1.11.1998) by 1998 c. 38, s. 140, **Sch. 16 para. 82(1)(2)** (with ss. 139(2), 141(1), 143(2)); S.I. 1998/2244, **art.5**.
- F32** Sch. 1 para. 15(5) substituted (1.11.1998) by 1998 c. 38, s. 140, **Sch. 16 para. 96(4)** (with ss. 139(2), 141(1), 143(2)); S.I. 1998/2244, **art.5**.

#### Marginal Citations

- M21** 1985 c. 6.
- M22** 1985 c. 69.

*Status: Point in time view as at 01/01/2003.*

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### PART III

#### ACCOUNTS AND AUDIT

##### *General requirements as to accounts and audit*

- 16 (1) The [<sup>F33</sup>Relevant Authority] may from time to time determine accounting requirements for registered social landlords with a view to ensuring that the accounts of every registered social landlord—
- (a) are prepared in a proper form, and
  - (b) give a true and fair view of—
    - (i) the state of affairs of the landlord, so far as its housing activities are concerned, and
    - (ii) the disposition of funds and assets which are, or at any time have been, in its hands in connection with those activities.
- (2) The [<sup>F33</sup>Relevant Authority] by a determination under sub-paragraph (1) may lay down a method by which a registered charity is to distinguish in its accounts between its housing activities and other activities.
- (3) The accounts of every registered social landlord shall comply with the requirements laid down under this paragraph.
- (4) The auditor's report shall state, in addition to any other matters which it is required to state, whether in the auditor's opinion the accounts do so comply.
- (5) Every registered social landlord shall furnish to the [<sup>F33</sup>Relevant Authority] a copy of its accounts and auditor's report within six months of the end of the period to which they relate.

#### **Textual Amendments**

**F33** Words in Pt. I substituted (1.11.1998) by 1998 c. 38, s. 140, **Sch. 16 para. 82(1)(2)** (with ss. 139(2), 141(1), 143(2)); S.I. 1998/2244, **art.5**.

#### **Modifications etc. (not altering text)**

**C1** Sch. 1 para. 16(3)-(5) extended (16.9.1996) by S.I. 1996/2402, **art. 3**, **Sch. para. 5**

#### **Commencement Information**

**I3** Sch. 1 para. 16 wholly in force 1.10.1996; Sch. 1 para. 16 not in force at Royal Assent see s. 232(3) ; Sch. 1 para. 16(1)(2) in force at 1.8.1996 by 1996/2048, art. 2(1); Sch. 1 para. 16 in force at 1.10.1996 to the extent not already in force, by S.I. 1996/2402, **art. 3** (subject to the transitional savings in the Sch. to that S.I.)

##### *Appointment of auditors by industrial and provident societies*

- 17 Section 4 of the <sup>M23</sup>Friendly and Industrial and Provident Societies Act 1968 (obligation to appoint qualified auditors to audit accounts and balance sheet for each year of account) applies to every industrial and provident society which is a registered social landlord, without regard to the volume of its receipts and payments, the number of its members or the value of its assets.

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#### Marginal Citations

M23 1968 c. 55.

#### *Accounting and audit requirements for charities*

- 18 (1) A registered social landlord which is a registered charity shall, in respect of its housing activities (and separately from its other activities, if any), be subject to the following provisions (which impose accounting and audit requirements corresponding to those imposed by the Friendly and Industrial and Provident Societies Act 1968).

This does not affect any obligation of the charity under sections 41 to 45 of the <sup>M24</sup>Charities Act 1993 (charity accounts).

- (2) The charity shall in respect of its housing activities—
- (a) cause to be kept properly books of account showing its transactions and its assets and liabilities, and
  - (b) establish and maintain a satisfactory system of control of its books of accounts, its cash holdings and all its receipts and remittances.

The books of account must be such as to enable a true and fair view to be given of the state of affairs of the charity in respect of its housing activities, and to explain its transactions in the course of those activities.

- (3) The charity shall for each period of account prepare—
- (a) a revenue account giving a true and fair view of the charity's income and expenditure in the period, so far as arising in connection with its housing activities, and
  - (b) a balance sheet giving a true and fair view as at the end of the period of the state of the charity's affairs.

The revenue account and balance sheet must be signed by at least two directors or trustees of the charity.

- (4) The charity shall in each period of account appoint a qualified auditor to audit the accounts prepared in accordance with sub-paragraph (3).

A qualified auditor means a person who is eligible for appointment as auditor of the charity under Part II of the <sup>M25</sup>Companies Act 1989 or who would be so eligible if the charity were a company registered under the <sup>M26</sup>Companies Act 1985.

- (5) The auditor shall make a report to the charity on the accounts audited by him, stating whether in his opinion—
- (a) the revenue account gives a true and fair view of the state of income and expenditure of the charity in respect of its housing activities and of any other matters to which it relates, and
  - (b) the balance sheet gives a true and fair view of the state of affairs of the charity as at the end of the period of account.

- (6) The auditor in preparing his report shall carry out such investigations as will enable him to form an opinion as to the following matters—

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- (a) whether the association has kept, in respect of its housing activities, proper books of account in accordance with the requirements of this paragraph,
- (b) whether the charity has maintained a satisfactory system of control over its transactions in accordance with those requirements, and
- (c) whether the accounts are in agreement with the charity's books;

and if he is of opinion that the charity has failed in any respect to comply with this paragraph, or if the accounts are not in agreement with the books, he shall state that fact in his report.

(7) The auditor—

- (a) has a right of access at all times to the books, deeds and accounts of the charity, so far as relating to its housing activities, and to all other documents relating to those activities, and
- (b) is entitled to require from officers of the charity such information and explanations as he thinks necessary for the performance of his duties;

and if he fails to obtain all the information and explanations which, to the best of his knowledge and belief, are necessary for the purposes of his audit, he shall state that fact in his report.

(8) A period of account for the purposes of this paragraph is twelve months or such other period not less than six months or more than 18 months as the charity may, with the consent of the [<sup>F34</sup>Relevant Authority], determine.

#### Textual Amendments

**F34** Words in Pt. I substituted (1.11.1998) by 1998 c. 38, s. 140, **Sch. 16 para. 82(1)(2)** (with ss. 139(2), 141(1), 143(2)); S.I. 1998/2244, **art.5**.

#### Marginal Citations

**M24** 1993 c. 10.

**M25** 1989 c. 40.

**M26** 1985 c. 6.

#### *Responsibility for securing compliance with accounting requirements*

- 19 (1) Every responsible person, that is to say, every person who—
- (a) is directly concerned with the conduct and management of the affairs of a registered social landlord, and
  - (b) is in that capacity responsible for the preparation and audit of accounts,
- shall ensure that paragraph 16 (general requirements as to accounts and audit) and, where applicable, paragraph 18 (accounting and audit requirements for charities) are complied with by the registered social landlord.
- (2) If—
- (a) paragraph 16(5) (furnishing of accounts and auditor's report) is not complied with,
  - (b) the accounts furnished to the [<sup>F35</sup>Relevant Authority] under that provision do not comply with the accounting requirements laid down under paragraph 16(1),



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- (c) paragraph 18 (accounting and audit requirements for charities), where applicable, is not complied with,
- (d) section 55(9) of the <sup>M27</sup>Housing Act 1988 (surplus rental income: power to require information) is not complied with, or
- (e) any notice under section 26 (information relating to disposal proceeds fund) is not complied with,

every responsible person, and the registered social landlord itself, commits a summary offence and is liable on conviction to a fine not exceeding level 3 on the standard scale.

- (3) In proceedings for an offence under this paragraph it is a defence—
  - (a) for a responsible person to prove that he did everything that could reasonably have been expected of him by way of discharging the relevant duty;
  - (b) for a registered social landlord to prove that every responsible person did everything that could reasonably have been expected of him by way of discharging the relevant duty in relation to the registered social landlord.
- (4) Proceedings for an offence under this paragraph may be brought only by or with the consent of the [<sup>F35</sup>Relevant Authority] or the Director of Public Prosecutions.

#### Textual Amendments

**F35** Words in Pt. I substituted (1.11.1998) by 1998 c. 38, s. 140, **Sch. 16 para. 82(1)(2)** (with ss. 139(2), 141(1), 143(2)); S.I. 1998/2244, **art.5**.

#### Marginal Citations

**M27** 1988 c. 50.

## PART IV

### INQUIRY INTO AFFAIRS OF REGISTERED SOCIAL LANDLORDS

#### *Inquiry*

- 20 (1) The [<sup>F36</sup>Relevant Authority] may direct an inquiry into the affairs of a registered social landlord if it appears to the [<sup>F36</sup>Relevant Authority] that there may have been misconduct or mismanagement.

For this purpose “misconduct” includes any failure to comply with the requirements of this Part of this Act.

- (2) Any such inquiry shall be conducted by one or more persons appointed by the [<sup>F36</sup>Relevant Authority].
- (3) If one person is appointed [<sup>F37</sup>by the Housing Corporation to conduct an inquiry] he must be a person who is not a member or an employee of the [<sup>F38</sup>Housing Corporation] and has not been such a member or employee within the previous five years; and if more than one person is [<sup>F37</sup>so] appointed at least one of them must be such a person.

*Status: Point in time view as at 01/01/2003.*

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- (4) If the [<sup>F36</sup>Relevant Authority] so directs, or if during the course of the inquiry the person or persons conducting the inquiry consider it necessary, the inquiry shall extend to the affairs of any other body which at any material time is or was a subsidiary or associate of the registered social landlord.
- (5) The person or persons conducting the inquiry may, if they think fit during the course of the inquiry, make one or more interim reports on such matters as appear to them to be appropriate.
- (6) On completion of the inquiry the person or persons conducting the inquiry shall make a final report on such matters as the [<sup>F36</sup>Relevant Authority] may specify.
- (7) An interim or final report shall be in such form as the [<sup>F36</sup>Relevant Authority] may specify.

#### Textual Amendments

- F36** Words in Pt. I substituted (1.11.1998) by 1998 c. 38, s. 140, **Sch. 16 para. 82(1)(2)** (with ss. 139(2), 141(1), 143(2)); S.I. 1998/2244, **art.5**.
- F37** Words in Sch. 1 para. 20(3) inserted (1.11.1998) by 1998 c. 38, s. 140, **Sch. 16 para. 96(5)(a)(c)** (with ss. 139(2), 141(1), 143(2)); S.I. 1998/2244, **art.5**.
- F38** Words in Sch. 1 para. 20(3) substituted (1.11.1998) by 1998 c. 38, s. 140, **Sch. 16 para. 96(5)(b)** (with ss. 139(2), 141(1), 143(2)); S.I. 1998/2244, **art.5**.

#### *Power of appointed person to obtain information*

- 21 (1) A person appointed by the [<sup>F39</sup>Relevant Authority] under paragraph 20 to conduct an inquiry (or, if more than one person is so appointed, each of those persons) has, for the purposes of the inquiry, the same powers as are conferred on the [<sup>F39</sup>Relevant Authority] by section 30 (general power to obtain information).
- (2) Where by virtue of a notice under that section given by an appointed person any documents are produced to any person, the person to whom they are produced may take copies of or make extracts from them.
- (3) Section 31 (enforcement of notice to provide information, &c.) applies in relation to a notice given under this paragraph by an appointed person as it applies in relation to a notice given under section 30 by the [<sup>F39</sup>Relevant Authority].

#### Textual Amendments

- F39** Words in Pt. I substituted (1.11.1998) by 1998 c. 38, s. 140, **Sch. 16 para. 82(1)(2)** (with ss. 139(2), 141(1), 143(2)); S.I. 1998/2244, **art.5**.

#### *Extraordinary audit for purposes of inquiry*

- 22 (1) For the purposes of an inquiry under paragraph 20 the [<sup>F40</sup>Relevant Authority] may require the accounts and balance sheet of the registered social landlord concerned, or such of them as the [<sup>F40</sup>Relevant Authority] may specify, to be audited by a qualified auditor appointed by the [<sup>F40</sup>Relevant Authority].

*Status: Point in time view as at 01/01/2003.*

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- (2) A person is a qualified auditor for this purpose if he would be eligible for appointment as auditor of the ordinary accounts of the registered social landlord.
- (3) On completion of the audit the appointed auditor shall make a report to the [F40Relevant Authority] on such matters and in such form as the [F40Relevant Authority] may specify.
- (4) The expenses of the audit, including the remuneration of the auditor, shall be paid by the [F40Relevant Authority].
- (5) An audit under this paragraph is additional to, and does not affect, any audit made or to be made under any other enactment.

#### Textual Amendments

**F40** Words in Pt. I substituted (1.11.1998) by 1998 c. 38, s. 140, Sch. 16 para. 82(1)(2) (with ss. 139(2), 141(1), 143(2)); S.I. 1998/2244, art.5.

#### *Powers exercisable on interim basis*

- 23 (1) The [F41Relevant Authority] may make an order under this paragraph—
- (a) where an inquiry has been directed under paragraph 20 and the [F41Relevant Authority] has reasonable grounds to believe—
    - (i) that there has been misconduct or mismanagement in the affairs of the registered social landlord, and
    - (ii) that immediate action is needed to protect the interests of the tenants of the registered social landlord or to protect the assets of the landlord; or
  - (b) where an interim report has been made under paragraph 20(5) as a result of which the [F41Relevant Authority] is satisfied that there has been misconduct or mismanagement in the affairs of a registered social landlord.
- (2) The orders that may be made under this paragraph are—
- (a) an order suspending any officer, employee or agent of the registered social landlord who appears to the [F41Relevant Authority] to have been responsible for or privy to the misconduct or mismanagement or by his conduct to have contributed to or facilitated it;
  - (b) an order directing any bank or other person who holds money or securities on behalf of the registered social landlord not to part with the money or securities without the approval of the [F41Relevant Authority];
  - (c) an order restricting the transactions which may be entered into, or the nature or amount of the payments which may be made, by the registered social landlord without the approval of the [F41Relevant Authority].
- (3) An order under this paragraph, if not previously revoked by the [F41Relevant Authority], shall cease to have effect six months after the making of the final report under paragraph 20(6) unless the [F41Relevant Authority] renews it, which it may do for a further period of up to six months.
- (4) A person suspended by an order under sub-paragraph (2)(a) may appeal against the order to the High Court.

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- (5) Where a person is suspended by such an order, the [F41Relevant Authority] may give directions with respect to the performance of his functions and otherwise as to matters arising from his suspension.

The [F41Relevant Authority] may, in particular, appoint a named person to perform his functions.

- (6) A person who contravenes an order under sub-paragraph (2)(b) commits an offence and is liable on summary conviction to a fine not exceeding level 5 on the standard scale or imprisonment for a term not exceeding three months, or both.

Proceedings for such an offence may be brought only by or with the consent of the [F41Relevant Authority] or the Director of Public Prosecutions.

#### Textual Amendments

**F41** Words in Pt. I substituted (1.11.1998) by 1998 c. 38, s. 140, **Sch. 16 para. 82(1)(2)** (with ss. 139(2), 141(1), 143(2)); S.I. 1998/2244, **art.5**.

#### *Powers exercisable as a result of final report or audit*

- 24 (1) Where the [F42Relevant Authority] is satisfied, as the result of an inquiry under paragraph 20 or an audit under paragraph 22, that there has been misconduct or mismanagement in the affairs of a registered social landlord, it may make an order under this paragraph.

- (2) The orders that may be made under this paragraph are—
- (a) an order removing any officer, employee or agent of the registered social landlord who appears to the [F42Relevant Authority] to have been responsible for or privy to the misconduct or mismanagement or by his conduct to have contributed to or facilitated it;
  - (b) an order suspending any such person for up to six months, pending determination whether he should be removed;
  - (c) an order directing any bank or other person who holds money or securities on behalf of the registered social landlord not to part with the money or securities without the approval of the [F42Relevant Authority];
  - (d) an order restricting the transactions which may be entered into, or the nature or amount of the payments which may be made, by the registered social landlord without the approval of the [F42Relevant Authority].

- (3) Before making an order under sub-paragraph (2)(a) the [F42Relevant Authority] shall give at least 14 days' notice of its intention to do so—

- (a) to the person it intends to remove, and
- (b) to the registered social landlord concerned.

Notice under this sub-paragraph may be given by post, and if so given to the person whom the [F42Relevant Authority] intends to remove may be addressed to his last known address in the United Kingdom.

- (4) A person who is ordered to be removed under sub-paragraph (2)(a) or suspended under sub-paragraph (2)(b) may appeal against the order to the High Court.

*Status: Point in time view as at 01/01/2003.*

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- (5) Where a person is suspended under sub-paragraph (2)(b), the <sup>F42</sup>Relevant Authority] may give directions with respect to the performance of his functions and otherwise as to matters arising from the suspension.

The <sup>F42</sup>Relevant Authority] may, in particular, appoint a named person to perform his functions.

- (6) A person who contravenes an order under sub-paragraph (2)(c) commits an offence and is liable on summary conviction to a fine not exceeding level 5 on the standard scale or imprisonment for a term not exceeding three months, or both.

Proceedings for such an offence may be brought only by or with the consent of the <sup>F42</sup>Relevant Authority] or the Director of Public Prosecutions.

#### Textual Amendments

**F42** Words in Pt. I substituted (1.11.1998) by 1998 c. 38, s. 140, **Sch. 16 para. 82(1)(2)** (with ss. 139(2), 141(1), 143(2)); S.I. 1998/2244, **art.5**.

#### *Disqualification as officer of registered social landlord.*

- 25 (1) A person is disqualified from being an officer of a registered social landlord if the <sup>F43</sup>Relevant Authority] has made an order against him under—
- (a) paragraph 24(2)(a) (removal for misconduct or mismanagement), or
  - (b) section 30(1)(a) of the <sup>M28</sup>Housing Associations Act 1985 or section 20(1)(a) of the <sup>M29</sup>Housing Act 1974 (corresponding earlier provisions).
- (2) The <sup>F43</sup>Relevant Authority] may, on the application of any such person, waive his disqualification either generally or in relation to a particular registered social landlord or particular class of registered social landlord.
- (3) Any waiver shall be notified in writing to the person concerned.
- (4) For the purposes of this paragraph the <sup>F43</sup>Relevant Authority] shall keep, in such manner as it thinks fit, a register of all persons who have been removed from office by the <sup>F43</sup>Relevant Authority] under the provisions mentioned in sub-paragraph (1).
- (5) The register shall be available for public inspection at all reasonable times.

#### Textual Amendments

**F43** Words in Pt. I substituted (1.11.1998) by 1998 c. 38, s. 140, **Sch. 16 para. 82(1)(2)** (with ss. 139(2), 141(1), 143(2)); S.I. 1998/2244, **art.5**.

#### Marginal Citations

**M28** 1985 c. 69.

**M29** 1974 c. 44.

*Status: Point in time view as at 01/01/2003.*

*Changes to legislation: Housing Act 1996 is up to date with all changes known to be in force on or before 26 July 2024. There are changes that may be brought into force at a future date. Changes that have been made appear in the content and are referenced with annotations. (See end of Document for details)*

*Persons acting as officer while disqualified.*

- 26 (1) A person who acts as an officer of a registered social landlord while he is disqualified under paragraph 25(1) commits an offence.

A person guilty of such an offence is liable—

- (a) on summary conviction, to imprisonment for a term not exceeding six months or to a fine not exceeding the statutory maximum, or both;
- (b) on conviction on indictment, to imprisonment for a term not exceeding two years or to a fine, or both.

- (2) Proceedings for an offence under sub-paragraph (1) may be brought only by or with the consent of the [F44Relevant Authority] or the Director of Public Prosecutions.

- (3) Acts done as an officer of a registered social landlord by a person who is disqualified under paragraph 25(1) are not invalid by reason only of that disqualification.

- (4) Where the [F44Relevant Authority] is satisfied—

- (a) that a person has acted as an officer of a registered social landlord while disqualified under paragraph 25(1), and
- (b) that while so acting he has received from the registered social landlord any payments or benefits in connection with his so acting,

it may by order direct him to repay to the registered social landlord the whole or part of any such sums or, as the case may be, to pay to it the whole or part of the monetary value (as determined by it) of any such benefit.

**Textual Amendments**

**F44** Words in Pt. I substituted (1.11.1998) by 1998 c. 38, s. 140, **Sch. 16 para. 82(1)(2)** (with ss. 139(2), 141(1), 143(2)); S.I. 1998/2244, **art.5**.

*Power to direct transfer of land*

- 27 (1) Where as a result of an inquiry under paragraph 20 or an audit under paragraph 22 the [F45Relevant Authority] is satisfied as regards a registered social landlord—

- (a) that there has been misconduct or mismanagement in its administration, or
- (b) that the management of its land would be improved if its land were transferred in accordance with the provisions of this paragraph,

the [F45Relevant Authority] may, <sup>F46</sup>. . . direct the registered social landlord to make such a transfer . [F47The consent of the Secretary of State is required for the giving of directions by the Housing Corporation.]

- (2) Where the registered social landlord concerned is a charity, the [F45Relevant Authority] may only direct a transfer to be made to another registered social landlord—

- (a) which is also a charity, and
- (b) the objects of which appear to the [F45Relevant Authority] to be, as nearly as practicable, akin to those of the registered social landlord concerned.

- (3) In any other case the [F45Relevant Authority] may direct a transfer to be made to the [F45Relevant Authority] or to another registered social landlord.

*Status: Point in time view as at 01/01/2003.*

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- (4) The transfer shall be on such terms as the [<sup>F45</sup>Relevant Authority] may direct on the basis of principles determined by it.

[<sup>F48</sup>If the transfer is directed by the Housing Corporation, the consent] of the Secretary of State is required both for the terms of the transfer and for the determination of the principles on which it is based.

- (5) The price shall not be less than the amount certified by the district valuer to be the amount the property would command if sold by a willing seller to another registered social landlord.
- (6) The terms shall include provision as to the payment of debts and liabilities (including debts and liabilities secured on the land).

#### Textual Amendments

- F45** Words in Pt. I substituted (1.11.1998) by 1998 c. 38, s. 140, **Sch. 16 para. 82(1)(2)** (with ss. 139(2), 141(1), 143(2)); S.I. 1998/2244, **art.5**.
- F46** Words in Sch. 1 para. 27(1) repealed (1.11.1998) by 1998 c. 38, ss. 140, 152, Sch. 16 para. 96(6)(a), **Sch. 18 Pt. VI** (with ss. 137(1), 139(2), 141(1), 143(2)); S.I. 1998/2244, **art.5**.
- F47** Words in Sch. 1 para. 27(1) inserted (1.11.1998) by 1998 c. 38, s. 140, **Sch. 16 para. 96(6)(b)** (with ss. 139(2), 141(1), 143(2)); S.I. 1998/2244, **art.5**.
- F48** Words in Sch. 1 para. 27(4) substituted (1.11.1998) by 1998 c. 38, s. 140, **Sch. 16 para. 96(7)** (with ss. 139(2), 141(1), 143(2)); S.I. 1998/2244, **art.5**.

#### Commencement Information

- I4** Sch. 1 para. 27 wholly in force at 1.10.1996; Sch. 1 para. 27 not in force at Royal Assent see s. 232(3); Sch. 1 para. 27(4) in force for certain purposes at 1.8.1996 by S.I. 1996/2048, **art. 3**; Sch. 1 para. 27 in force at 1.10.1996 to the extent that it is not already in force, by S.I. 1996/2402, **art. 3** (subject to the transitional provisions and savings in the Sch. of that S.I.)

#### *Availability of powers in relation to registered charities.*

- 28 (1) The [<sup>F49</sup>Relevant Authority] may exercise its powers under paragraphs 20 to 26 in relation to a registered charity only if the charity has, at any time before the powers are exercised—
- received financial assistance under section 24 of the <sup>M30</sup>Local Government Act 1988 (assistance for privately let housing accommodation),
  - had property transferred to it on a qualifying disposal under section 135 of the <sup>M31</sup>Leasehold Reform, Housing and Urban Development Act 1993, or
  - received a grant or loan under any of the following provisions.
- (2) The provisions are—
- section 18 of this Act (social housing grant),
  - section 22 of this Act or section 58 of the <sup>M32</sup>Housing Associations Act 1985 (grants or loans by local authorities),
  - section 50 of the <sup>M33</sup>Housing Act 1988, section 41 of the Housing Associations Act 1985 or any enactment replaced by that section (housing association grant),
  - section 51 of the Housing Act 1988 or section 54 or 55 of the Housing Associations Act 1985 (revenue deficit grant or hostel deficit grant),

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section 79 of the Housing Associations Act 1985 (loans by [<sup>F50</sup>Relevant Authority]),

section 31 of the <sup>M34</sup>Housing Act 1974 (management grants), or  
 any enactment mentioned in paragraph 2 or 3 of Schedule 1 to the Housing Associations Act 1985 (pre-1974 grants and certain loans).

- (3) In relation to a registered charity paragraphs 20 to 26 have effect with the following adaptations—
- (a) references to its affairs are confined to its housing activities and such other activities (if any) as are incidental to or connected with its housing activities;
  - (b) references to its accounts do not include revenue accounts which do not relate to its housing activities, except so far as such accounts are necessary for the auditing of revenue accounts which do so relate or of the balance sheet;
  - (c) a person is a qualified auditor for the purpose of paragraph 22 (extraordinary audit) only if he is an auditor qualified for the purposes of paragraph 18 (accounting and audit requirements for charities).
- (4) The [<sup>F49</sup>Relevant Authority] shall notify the Charity Commissioners upon the exercise in relation to a registered charity of its powers under—
- (a) paragraph 20(1) (inquiry into affairs of registered social landlord),
  - (b) paragraph 23(2)(a) (interim suspension of person in connection with misconduct or mismanagement), or
  - (c) paragraph 24(2)(a) or (b) (removal of person in connection with misconduct or mismanagement or suspension with a view to removal).

#### Textual Amendments

- F49** Words in Pt. I substituted (1.11.1998) by 1998 c. 38, s. 140, **Sch. 16 para. 82(1)(2)** (with ss. 139(2), 141(1), 143(2)); S.I. 1998/2244, **art.5**.
- F50** Words in Sch. 1 para. 28(2) substituted (1.11.1998) by 1998 c. 38, s. 140, **Sch. 16 para. 96(8)** (with ss. 139(2), 141(1), 143(2)); S.I. 1998/2244, **art.5**.

#### Marginal Citations

- M30** 1988 c. 9.  
**M31** 1993 c. 28.  
**M32** 1985 c. 69.  
**M33** 1988 c. 50.  
**M34** 1974 c. 44.

- 29 The [<sup>F51</sup>Relevant Authority] may not exercise its powers under paragraph 27 in relation to a registered charity.

#### Textual Amendments

- F51** Words in Pt. I substituted (1.11.1998) by 1998 c. 38, s. 140, **Sch. 16 para. 82(1)(2)** (with ss. 139(2), 141(1), 143(2)); S.I. 1998/2244, **art.5**.



*Status: Point in time view as at 01/01/2003.*

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## SCHEDULE 2

Section 51.

### SOCIAL RENTED SECTOR: HOUSING COMPLAINTS

#### *Social landlords required to be member of approved scheme*

- 1 (1) A social landlord must be a member of an approved scheme covering, or more than one approved scheme which together cover, all his housing activities.
- (2) If a social landlord fails to comply with the duty imposed by this paragraph, the Secretary of State may apply to the High Court for an order directing him to comply within a specified period and the High Court may, if it thinks fit, make such an order.
- (3) Nothing in this Schedule shall be construed as restricting membership of an approved scheme to social landlords.

#### **Commencement Information**

- I5** Sch. 2 para. 1 wholly in force at 1.4.1997 see s. 232(1)-3) and [S.I. 1997/618](#), [art. 2](#) (subject to the limitation in (2) of that art.)

#### *Matters for which scheme must provide*

- 2 (1) A scheme shall not be approved for the purposes of this Schedule unless it makes provision for—
  - (1) The establishment or appointment of an independent person to administer the scheme.
  - (2) The criteria for membership for—
    - (a) social landlords under a duty to be members of an approved scheme, and
    - (b) other persons.
  - (3) The manner of becoming or ceasing to be a member.
  - (4) The matters about which complaints may be made under the scheme.
  - (5) The grounds on which a matter may be excluded from investigation, including that the matter is the subject of court proceedings or was the subject of court proceedings where judgment on the merits was given.
  - (6) The descriptions of individual who may make a complaint under the scheme.
  - (7) The appointment of an independent individual to be the housing ombudsman under the scheme.
  - (8) The appointment of staff to administer the scheme and to assist the housing ombudsman and the terms upon which they are appointed.
  - (9) A duty of the housing ombudsman to investigate any complaint duly made and not withdrawn, and a power to investigate any complaint duly made but withdrawn, and where he investigates to make a determination.
- (10) A power of the housing ombudsman to propose alternative methods of resolving a dispute.

*Status: Point in time view as at 01/01/2003.*

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- (11) The powers of the housing ombudsman for the purposes of his investigations, and the procedure to be followed in the conduct of investigations.
- (12) The powers of the housing ombudsman on making a determination.
- (13) The making and publication of annual reports by the housing ombudsman on the discharge of his functions.
- (14) The manner in which determinations are to be—
  - (a) communicated to the complainant and the person against whom the complaint was made, and
  - (b) published.
- (15) The manner in which the expenses of the scheme are to be defrayed by the members.
- (16) The keeping and auditing of accounts and the submission of accounts to the Secretary of State.
- (17) The making of annual reports on the administration of the scheme.
- (18) The manner of amending the scheme.
  - (2) The Secretary of State may by order amend sub-paragraph (1) by adding to or deleting from it any item or by varying any item for the time being contained in it.
  - (3) An order under sub-paragraph (2) shall be made by statutory instrument which shall be subject to annulment in pursuance of a resolution of either House of Parliament.

#### **Commencement Information**

**I6** Sch. 2 para. 2 wholly in force at 1.8.1996 see s. 232(1)-(3) and S.I. 1996/2048, art. 2 (subject to the limitation in (2) of that art.)

#### *Approval of scheme, or amendment, and withdrawal of approval*

- 3 (1) An application to the Secretary of State for approval of a scheme shall be made in such manner as the Secretary of State may determine, and shall be accompanied by such information as the Secretary of State may require.
  - (2) If it appears to the Secretary of State that the scheme—
    - (a) provides for the matters specified in paragraph 2, and
    - (b) is a satisfactory scheme for the purposes of this Schedule,
 he shall approve the scheme.
  - (3) An amendment of an approved scheme is not effective unless approved by the Secretary of State.
- Sub-paragraph (1) applies in relation to an application for approval of an amendment as it applies to an application for approval of a scheme; and the Secretary of State shall approve the amendment if it appears to him that the scheme as amended meets the conditions in sub-paragraph (2).
- (4) The Secretary of State may withdraw his approval of a scheme.

*Status: Point in time view as at 01/01/2003.*

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- (5) If the Secretary of State proposes to withdraw his approval of a scheme, he shall serve on the person administering the scheme and on the housing ombudsman under the scheme, a notice stating—
- that he proposes to withdraw his approval,
  - the grounds for the proposed withdrawal of his approval, and
  - that the person receiving the notice may make representations with respect to the proposed withdrawal of approval within such period of not less than 14 days as is specified in the notice;
- and he shall, before reaching a decision on whether to withdraw approval, consider any representations duly made to him.
- (6) The Secretary of State shall give notice of his decision on a proposal to withdraw approval of a scheme, together with his reasons, to every person on whom he served a notice under sub-paragraph (5).
- (7) Withdrawal of approval by the Secretary of State has effect from such date as is specified in the notice of his decision.
- (8) Where the person administering a scheme is given notice of a decision to withdraw approval of the scheme, he shall give notice of the decision to every member of the scheme.

#### Commencement Information

- I7** Sch. 2 para. 3 wholly in force at 1.8.1996 see s. 232(1)-(3) and S.I. 1996/2048, art. 2 (subject to the limitation in (2) of that art.)

#### *Notice to be given of becoming a member of an approved scheme*

- 4 (1) A social landlord who—
- becomes a member of an approved scheme, or
  - is a member of a scheme which becomes an approved scheme,
- shall, within the period of 21 days beginning with the date of becoming a member or, as the case may be, of being informed of the Secretary of State's approval of the scheme, give notice of that fact to the [F52Relevant Authority].
- (2) The [F52Relevant Authority], on receiving the notice, shall record his membership of an approved scheme.
- (3) A person who fails to comply with sub-paragraph (1) commits an offence and is liable on summary conviction to a fine not exceeding level 4 on the standard scale.

Proceedings for such an offence may be brought only by or with the consent of the [F52Relevant Authority] or the Director of Public Prosecutions.

#### Textual Amendments

- F52** Words in Pt. I substituted (1.11.1998) by 1998 c. 38, s. 140, Sch. 16 para. 82(1)(2) (with ss. 139(2), 141(1), 143(2)); S.I. 1998/2244, art.5.

*Status: Point in time view as at 01/01/2003.*

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#### Commencement Information

- 18** Sch. 2 para. 4 wholly in force at 1.8.1996 see s. 232(1)-(3) and S.I. 1996/2048, art. 2 (subject to the limitation in (2) of that art.)

#### *Withdrawal from approved scheme*

- 5 (1) A social landlord wishing to withdraw from membership of an approved scheme shall send notice of his proposed withdrawal to the [<sup>F53</sup>Relevant Authority].
- (2) The notice shall specify—
- (a) the housing activities in relation to which he is subject to investigation under the scheme,
  - (b) the approved scheme or schemes of which he is also a member or will, on his withdrawal, become a member, and
  - (c) under which scheme or schemes the housing activities mentioned in paragraph (a) will be subject to investigation after his withdrawal.
- (3) If the [<sup>F53</sup>Relevant Authority] is satisfied that withdrawal by the landlord from the scheme will not result in a failure to comply with his duty under paragraph 1, it shall confirm the landlord's withdrawal from the scheme.
- (4) If the [<sup>F53</sup>Relevant Authority] is not so satisfied, it shall withhold confirmation of the landlord's withdrawal from the scheme; and the landlord shall continue to be a member of the scheme and bound and entitled under the scheme accordingly.

#### Textual Amendments

- F53** Words in Pt. I substituted (1.11.1998) by 1998 c. 38, s. 140, Sch. 16 para. 82(1)(2) (with ss. 139(2), 141(1), 143(2)); S.I. 1998/2244, art.5.

#### Commencement Information

- 19** Sch. 2 para. 5 wholly in force at 1.8.1996 see s. 232(1)-(3) and S.I. 1996/2048, art. 2 (subject to the limitation in (2) of that art.)

#### *Register of approved schemes*

- 6 (1) The [<sup>F54</sup>Relevant Authority] shall maintain a register of schemes approved by the Secretary of State for the purposes of this Schedule and of the social landlords who are members of those schemes.
- (2) The Secretary of State shall give notice to the [<sup>F55</sup>Housing Corporation]—
- (a) when he grants or withdraws his approval of a scheme, and
  - (b) when he approves an amendment of a scheme,
- and he shall supply the [<sup>F55</sup>Housing Corporation] with copies of any approved scheme or any amendment to a scheme.
- (3) A member of the public shall be entitled, upon payment of such fees as the [<sup>F54</sup>Relevant Authority] may determine, to receive a copy of an approved scheme and a list of the social landlords who are members of it.

*Status: Point in time view as at 01/01/2003.*

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#### Textual Amendments

- F54** Words in Pt. 1 substituted (1.11.1998) by 1998 c. 38, s. 140, **Sch. 16 para. 82(1)(2)** (with ss. 139(2), 141(1), 143(2)); S.I. 1998/2244, **art.5**.
- F55** Words in Sch. 2 para. 6(2) substituted (1.11.1998) by 1998 c. 38, s. 140, **Sch. 16 para. 97(2)** (with ss. 139(2), 141(1), 143(2)); S.I. 1998/2244, **art.5**.

#### Commencement Information

- I10** Sch. 2 para. 6 wholly in force at 1.8.1996 see s. 232(1)-(3) and S.I. 1996/2048, **art. 2** (subject to the limitation in (2) of that art.)

#### *Determinations by housing ombudsman*

- 7 (1) A housing ombudsman under an approved scheme shall investigate any complaint duly made to him and not withdrawn, and may investigate any complaint duly made but withdrawn, and where he investigates a complaint he shall determine it by reference to what is, in his opinion, fair in all the circumstances of the case.
- (2) He may in his determination—
- order the member of a scheme against whom the complaint was made to pay compensation to the complainant, and
  - order that the member or the complainant shall not exercise or require the performance of any of the contractual or other obligations or rights existing between them.
- (3) If the member against whom the complaint was made fails to comply with the determination within a reasonable time, the housing ombudsman may order him to publish in such manner as the ombudsman sees fit that he has failed to comply with the determination.
- (4) Where the member is not a social landlord, the housing ombudsman may also order that the member—
- be expelled from the scheme, and
  - publish in such manner as the housing ombudsman sees fit that he has been expelled and the reasons for his expulsion.
- (5) If a person fails to comply with an order under sub-paragraph (3) or (4)(b), the housing ombudsman may take such steps as he thinks appropriate to publish what the member ought to have published and recover from the member the costs of doing so.
- (6) A member who is ordered by the housing ombudsman to pay compensation or take any other steps has power to do so, except that a member which is also a charity shall not do anything contrary to its trusts.

#### Commencement Information

- I11** Sch. 2 para. 7 wholly in force at 1.4.1997 see s. 232(1)-(3) and S.I. 1997/618, **art. 2** (subject to the limitation in (2) of that art.)

#### *Publication of determinations, &c.*

- 8 (1) A housing ombudsman under an approved scheme may publish—

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- (a) his determination on any complaint, and
  - (b) such reports as he thinks fit on the discharge of his functions.
- (2) He may include in any such determination or report statements, communications, reports, papers or other documentary evidence obtained in the exercise of his functions.
- (3) In publishing any determination or report, a housing ombudsman shall have regard to the need for excluding so far as practicable—
- (a) any matter which relates to the private affairs of an individual, where publication would seriously and prejudicially affect the interests of that individual, and
  - (b) any matter which relates specifically to the affairs of a member of an approved scheme, where publication would seriously and prejudicially affect its interests, unless the inclusion of that matter is necessary for the purposes of the determination or report.

**Commencement Information**

**I12** Sch. 2 para. 8 wholly in force at 1.4.1997 see s. 232(1)-(3) and S.I. 1997/618, art. 2 (subject to the limitation in (2) of that art.)

*Absolute privilege for communications, &c.*

- 9 For the purposes of the law of defamation absolute privilege attaches to—
- (a) any communication between a housing ombudsman under an approved scheme and any person by or against whom a complaint is made to him,
  - (b) any determination by such an ombudsman, and
  - (c) the publication of such a determination or any report under paragraph 8.

**Commencement Information**

**I13** Sch. 2 para. 9 wholly in force at 1.4.1997 see s. 232(1)-(3) and S.I. 1997/618, art. 2 (subject to the limitation in (2) of that art.)

*Appointment and status of housing ombudsman*

- 10 (1) Where an approved scheme provides that it shall be administered by a body corporate, that body shall appoint on such terms as it thinks fit the housing ombudsman for the purposes of the scheme and the appointment and its terms shall be subject to the approval of the Secretary of State.
- (2) Where an approved scheme does not so provide—
- (a) the housing ombudsman for the purposes of the scheme shall be appointed by the Secretary of State on such terms as the Secretary of State thinks fit,
  - (b) the Secretary of State may by order provide that the housing ombudsman for the purposes of the scheme shall be a corporation sole, and
  - (c) the staff to administer the scheme and otherwise assist the ombudsman in the discharge of his functions shall be appointed and employed by him.

*Status: Point in time view as at 01/01/2003.*

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- (3) The Secretary of State may at any time remove from office a housing ombudsman (whether appointed by him or otherwise).
- (4) A housing ombudsman appointed by the Secretary of State or otherwise shall not be regarded as the servant or agent of the Crown or as enjoying any status, privilege or immunity of the Crown or as exempt from any tax, duty, rate, levy or other charge whatsoever, whether general or local, and any property held by him shall not be regarded as property of, or held on behalf of, the Crown.

#### Commencement Information

- I14** Sch. 2 para. 10 wholly in force at 1.8.1996 see s. 232(1)-(3) and S.I. 1996/2048, art. 2 (subject to the limitation in (2) of that art.)

#### *Subscriptions payable in respect of approved schemes*

- 11 (1) Members of an approved scheme shall pay a subscription, calculated as set out in the scheme, to the person administering the scheme.
- (2) If a social landlord fails to comply with his duty under paragraph 1, the Secretary of State may determine—
- (a) which approved scheme or schemes he should have joined, and
  - (b) what sums by way of subscription he should have paid,
- and may require him to pay those amounts to the person administering the scheme or schemes.
- (3) The person administering an approved scheme may recover sums payable under subparagraph (1) or (2) as if they were debts due to him.
- (4) The Secretary of State or the [<sup>F56</sup>Housing Corporation] may pay grant and provide other financial assistance to—
- (a) a body corporate administering an approved scheme, or
  - (b) in a case where paragraph 10(2) applies, to the housing ombudsman under an approved scheme,
- for such purposes and upon such terms as the Secretary of State or, as the case may be, the [<sup>F56</sup>Housing Corporation] thinks fit.

#### Textual Amendments

- F56** Words in Sch. 2 para. 11(4) substituted (1.11.1998) by 1998 c. 38, s. 140, Sch. 16 para. 97(3) (with ss. 139(2), 141(1), 143(2)); S.I. 1998/2244, art.5.

#### Commencement Information

- I15** Sch. 2 para. 11 wholly in force 1.4.1997; Sch. 2 para. 11 not in force at Royal Assent see s. 232(1)-(3); Sch. 2 para. 11(1)(3)(4) in force at 1.8.1996 by S.I. 1996/2048, art. 2 (subject to the limitation in (2) of that art.); Sch. 2 para. 11 in force at 1.4.1997 so far as not already in force by S.I. 1997/618, art. 2 (subject to the limitation in (2) of that art.)

*Status: Point in time view as at 01/01/2003.*

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## SCHEDULE 3

Section 55.

### SOCIAL RENTED SECTOR: MINOR AMENDMENTS

#### *Finance Act 1981 (c.35)*

- 1 (1) Section 107 of the Finance Act 1981 (stamp duty payable upon sale of houses at a discount) is amended as follows.
- (2) After subsection (3)(e) insert—
- “(ea) a registered social landlord within the meaning of Part I of the Housing Act 1996;”.
- (3) In subsection (3)(f) for the words from “registered” to the end substitute “registered —
- (i) in Scotland, under the Housing Associations Act 1985, or
- (ii) in Northern Ireland, under Part II of the Housing (Northern Ireland) Order 1992;”.
- (4) In subsection (3A) (exclusion of certain sub-sales), for “subsection (3)(f)” substitute “subsection (3)(ea) or (f) ”.
- (5) After subsection (3B) insert—
- “(3C) A grant under section 20 or 21 of the Housing Act 1996 (purchase grants in respect of disposals at a discount by registered social landlords) shall not be treated as part of the consideration for a conveyance or transfer to which this section applies made by a body falling within subsection (3)(ea) above.”.

#### **Commencement Information**

**I16** Sch. 3 para. 1 wholly in force 1.4.1997: Sch. 3 para. 1 not in force at Royal Assent, see s. 232(1)-(3); Sch. 3 para. 1(1)-(4) in force at 1.10.1996 by S.I. 1996/2402, art. 3 (subject to the transitional provisions and savings in Sch. para. 1 of that S.I.) and Sch. 3 para. 1 in force at 1.4.1997 so far as not already in force by S.I. 1997/618, art. 2 (subject to the limitation in (2) of that art.)

#### *Local Government Finance Act 1982 (c.32)*

<sup>F57</sup>2 .....

#### **Textual Amendments**

**F57** Sch. 3 para. 2 repealed (11.9.1998) by 1998 c. 18, ss. 54(3), 55(2), Sch.5.

#### *Housing Associations Act 1985 (c.69)*

- 3 Section 33 of the Housing Associations Act 1985 (recognition of central association) shall cease to have effect.



*Status: Point in time view as at 01/01/2003.*

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**Extent Information**

- E1** Sch. 3 para. 3: the extent of amendments/repeals of Housing Associations Act 1985 is as mentioned in s. 231(1)(4)(a)

**Modifications etc. (not altering text)**

- C2** Sch. 3 para. 3 extended (16.9.1996) by S.I. 1996/2402, art. 3, Sch. para. 1

- 4 In section 69(1) of the Housing Associations Act 1985 (power to vary or terminate certain agreements with housing associations: agreements to which the section applies), omit paragraphs (e) and (g).

**Extent Information**

- E2** Sch. 3 para. 4: the extent of amendments/repeals of Housing Associations Act 1985 is as mentioned in s. 231(1)(4)(a)

**Modifications etc. (not altering text)**

- C3** Sch. 3 para. 4 extended (16.9.1996) by S.I. 1996/2402, art. 3, Sch. para. 1

- 5 In section 75(1) of the Housing Associations Act 1985 (general functions of the Corporation) for paragraphs (a) to (c) substitute—
- “(a) to facilitate the proper performance of the functions of registered social landlords;
  - (b) to maintain a register of social landlords and to exercise supervision and control over such persons;
  - (c) to promote and assist the development of self-build societies (other than registered social landlords) and to facilitate the proper performance of the functions, and to publicise the aims and principles, of such societies;”.

**Extent Information**

- E3** Sch. 3 para. 5: the extent of amendments/repeals of Housing Associations Act 1985 is as mentioned in s. 231(1)(4)(a)

**Modifications etc. (not altering text)**

- C4** Sch. 3 para. 5 extended (16.9.1996) by S.I. 1996/2402, art. 3, Sch. para. 1

- 6 In Part III of the Housing Associations Act 1985 (general provisions relating to the Housing Corporation and Housing for Wales), after section 76 (general power of Secretary of State to give directions to Corporation) insert—

**“76A Realisation of value of Corporation’s loans portfolio.**

- (1) The Corporation may, and if so directed by the Secretary of State (under section 76) shall, enter into arrangements of a description approved by the Secretary of State for the purpose of realising the value of the whole or part of its loans portfolio.
- (2) The arrangements may provide for—

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- (a) the transfer of any estate or interest of the Corporation, or
  - (b) the creation or disposal of economic interests not involving a transfer of an estate or interest,
- and may extend to such incidental or ancillary matters as the Corporation or the Secretary of State considers appropriate.
- (3) In this section the Corporation’s “loans portfolio” means the Corporation’s rights and obligations in relation to any loans or related securities.
- (4) Nothing in the terms of any loan or related transaction entered into by the Corporation shall be construed as impliedly prohibiting or restricting the Corporation from dealing with its loans portfolio in accordance with arrangements under this section.”.

**Extent Information**

**E4** Sch. 3 para. 6: the extent of amendments/repeals of Housing Associations Act 1985 is as mentioned in s. 231(1)(4)(a)

- 7 In section 87 of the Housing Associations Act 1985 (financial assistance for formation, management, &c. of housing associations), for subsection (1) substitute—

“(1) The Corporation may give financial assistance to any person to facilitate the proper performance of the functions of registered social landlords or co-operative housing associations.”.

**Extent Information**

**E5** Sch. 3 para. 7: the extent of amendments/repeals of Housing Associations Act 1985 is as mentioned in s. 231(1)(4)(a)

**Commencement Information**

**I17** Sch. 3 para. 7 wholly in force 1.10.1996; Sch. 3 para. 7 not in force at Royal Assent see s. 232(1)-(3); Sch. 3 para. 7 in force for certain purposes at 1.8.1996 by S.I. 1996/2048, art. 4 and in force at 1.10.1996 to the extent not already in force by S.I. 1996/2402, art. 3, Sch. para. 1

*Income and Corporation Taxes Act 1988 (c.1)*

- 8 (1) The Income and Corporation Taxes Act 1988 is amended as follows.
- (2) In section 488 (co-operative housing associations), after subsection (7) insert—
- “(7A) The Secretary of State may delegate any of his functions under subsections (6) and (7)—
- (a) to the Housing Corporation, in the case of a body registered as a social landlord in the register maintained by the Housing Corporation under Part I of the Housing Act 1996, and
  - (b) to Housing for Wales, in the case of a body registered as a social landlord in the register maintained under that Part by Housing for Wales,
- to such extent and subject to such conditions as he may specify.”.

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(3) In section 489 (self-build societies), after subsection (5) insert—

“(5A) The Secretary of State may delegate any of his functions under subsections (4) and (5) to—

- (a) the Housing Corporation, where the society has its registered office in England for the purposes of the Industrial and Provident Societies Act 1965, and
- (b) Housing for Wales, where the society has its registered office in Wales for the purposes of that Act,

to such extent and subject to such conditions as he may specify.”.

*Housing (Scotland) Act 1988 (c.43)*

F589

**Textual Amendments**

**F58** Sch. 3 para. 9 repealed (1.11.2001) by 2001 asp 10, s. 112, Sch. 10 para. 24; S.S.I. 2001/397, art. 2(2), Sch. Table (subject to transitional provisions in arts. 3-6)

*Housing Act 1988 (c.50)*

10 Section 58 of the Housing Act 1988 (application of Housing Acts to certain transactions) shall cease to have effect.

**Extent Information**

**E6** For extent of Sch. 3 para. 10, see s. 231(4)(b)

**Modifications etc. (not altering text)**

**C5** Sch. 3 para. 10 extended (16.9.1996) by S.I. 1996/2402, art. 3, Sch. para. 1

11 In section 79(2) of the Housing Act 1988 (permitted disposals of land by housing action trusts) for paragraph (a) and the word “or” at the end of the paragraph substitute—

- “(a) to a registered social landlord (within the meaning of Part I of the Housing Act 1996), or”.

**Modifications etc. (not altering text)**

**C6** Sch. 3 para. 11 extended (16.9.1996) by S.I. 1996/2402, art. 3, Sch. para. 1

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## SCHEDULE 4

Section 84.

### RIGHTS EXERCISABLE BY SURVEYOR APPOINTED BY TENANTS’ ASSOCIATION

**Modifications etc. (not altering text)**

- C7** Sch. 4 extended to Crown land (*prosp.*) by 2002 c. 15, ss. 172(1)(g), 181(1)  
 Sch. 4 (except para. 7) modified (*prosp.*) by 2002 c. 15, ss. 102(1), 181(1), Sch. 7 para. 15(1)

#### *Introductory*

- 1 (1) A surveyor appointed for the purposes of section 84 has the rights conferred by this Schedule.
- (2) In this Schedule—
- (a) “the tenants’ association” means the association by whom the surveyor was appointed, and
  - (b) the surveyor’s “functions” are his functions in connection with the matters in respect of which he was appointed.

#### *Appointment of assistants*

- 2 (1) The surveyor may appoint such persons as he thinks fit to assist him in carrying out his functions.
- (2) References in this Schedule to the surveyor in the context of—
- (a) being afforded any such facilities as are mentioned in paragraph 3, or
  - (b) carrying out an inspection under paragraph 4,
- include a person so appointed.

#### *Right to inspect documents, &c.*

- 3 (1) The surveyor has a right to require the landlord or any other relevant person—
- (a) to afford him reasonable facilities for inspecting any documents sight of which is reasonably required by him for the purposes of his functions, and
  - (b) to afford him reasonable facilities for taking copies of or extracts from any such documents.
- (2) In sub-paragraph (1) “other relevant person” means a person other than the landlord who is or, in relation to a future service charge, will be—
- (a) responsible for applying the proceeds of the service charge, or
  - (b) under an obligation to a tenant who pays the service charge in respect of any matter to which the charge relates.
- (3) The rights conferred on the surveyor by this paragraph are exercisable by him by notice in writing given by him to the landlord or other person concerned.

Where a notice is given to a person other than the landlord, the surveyor shall give a copy of the notice to the landlord.

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- (4) The landlord or other person to whom notice is given shall, within the period of one week beginning with the date of the giving of the notice or as soon as reasonably practicable thereafter, either—
- (a) afford the surveyor the facilities required by him for inspecting and taking copies or extracts of the documents to which the notice relates, or
  - (b) give the surveyor a notice stating that he objects to doing so for reasons specified in the notice.

- (5) Facilities for the inspection of any documents required under sub-paragraph (1)(a) shall be made available free of charge.

This does not mean that the landlord cannot treat as part of his costs of management any costs incurred by him in connection with making the facilities available.

- (6) A reasonable charge may be made for facilities for the taking of copies or extracts required under sub-paragraph (1)(b).

- (7) A notice is duly given under this paragraph to the landlord of a tenant if it is given to a person who receives on behalf of the landlord the rent payable by that tenant.

A person to whom such a notice is so given shall forward it as soon as may be to the landlord.

#### *Right to inspect premises*

- 4 (1) The surveyor also has the right to inspect any common parts comprised in relevant premises or any appurtenant property.

- (2) In sub-paragraph (1)—

“common parts”, in relation to a building or part of a building, includes the structure and exterior of the building or part and any common facilities within it;

“relevant premises” means so much of—

- (i) the building or buildings containing the dwellings let to members of the tenants' association, and
- (ii) any other building or buildings,

as constitute premises in relation to which management functions are discharged in respect of the costs of which service charges are payable by members of the association; and

“appurtenant property” means so much of any property not contained in relevant premises as constitutes property in relation to which any such management functions are discharged.

For the purposes of the above definitions “management functions” includes functions with respect to the provision of services, or the repair, maintenance or insurance of property.

- (3) On being requested to do so, the landlord shall afford the surveyor reasonable access for the purposes of carrying out an inspection under this paragraph.
- (4) Such reasonable access shall be afforded to the surveyor free of charge.

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This does not mean that the landlord cannot treat as part of his costs of management any costs incurred by him in connection with affording reasonable access to the surveyor.

- (5) A request is duly made under this paragraph to the landlord of a tenant if it is made to a person appointed by the landlord to deal with such requests or, if no such person has been appointed, to a person who receives on behalf of the landlord the rent payable by that tenant.

A person to whom such a request is made shall notify the landlord of the request as soon as may be.

**Modifications etc. (not altering text)**

- C8** Sch. 4 para. 4(2): power to amend conferred (*prosp.*) by 2002 c. 15, ss. 102(1), 181(1), **Sch. 7 para. 13**  
**C9** Sch. 4 para. 4(5) applied (with modifications) (*prosp.*) by 2002 c. 15, ss. 102(1), 181(1), **Sch. 7 para. 15(2)**

*Enforcement of rights by the court*

- 5 (1) If the landlord or other person to whom notice was given under paragraph 3 has not, by the end of the period of one month beginning with the date on which notice was given, complied with the notice, the court may, on the application of the surveyor, make an order requiring him to do so within such period as is specified in the order.
- (2) If the landlord does not, within a reasonable period after the making of a request under paragraph 4, afford the surveyor reasonable access for the purposes of carrying out an inspection under that paragraph, the court may, on the application of the surveyor, make an order requiring the landlord to do so on such date as is specified in the order.
- (3) An application for an order under this paragraph must be made before the end of the period of four months beginning with the date on which notice was given under paragraph 3 or the request was made under paragraph 4.
- (4) An order under this paragraph may be made in general terms or may require the landlord or other person to do specific things, as the court thinks fit.

*Documents held by superior landlord*

- 6 (1) Where a landlord is required by a notice under paragraph 3 to afford the surveyor facilities for inspection or taking copies or extracts in respect of any document which is in the custody or under the control of a superior landlord—
- (a) the landlord shall on receiving the notice inform the surveyor as soon as may be of that fact and of the name and address of the superior landlord, and
- (b) the surveyor may then give the superior landlord notice in writing requiring him to afford the facilities in question in respect of the document.
- (2) Paragraphs 3 and 5(1) and (3) have effect, with any necessary modifications, in relation to a notice given to a superior landlord under this paragraph.

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#### *Effect of disposal by landlord*

- 7 (1) Where a notice under paragraph 3 has been given or a request under paragraph 4 has been made to a landlord, and at a time when any obligations arising out of the notice or request remain to be discharged by him—
- (a) he disposes of the whole or part of his interest as landlord of any member of the tenants’ association, and
  - (b) the person acquiring that interest (“the transferee”) is in a position to discharge any of those obligations to any extent,
- that person shall be responsible for discharging those obligations to that extent, as if he had been given the notice under paragraph 3 or had received the request under paragraph 4.
- (2) If the landlord is, despite the disposal, still in a position to discharge those obligations, he remains responsible for doing so.
- Otherwise, the transferee is responsible for discharging them to the exclusion of the landlord.
- (3) In connection with the discharge of such obligations by the transferee, paragraphs 3 to 6 apply with the substitution for any reference to the date on which notice was given under paragraph 3 or the request was made under paragraph 4 of a reference to the date of the disposal.
- (4) In this paragraph “disposal” means a disposal whether by the creation or transfer of an estate or interest, and includes the surrender of a tenancy; and references to the transferee shall be construed accordingly.

#### *Effect of person ceasing to be a relevant person*

- 8 Where a notice under paragraph 3 has been given to a person other than the landlord and, at a time when any obligations arising out of the notice remain to be discharged by him, he ceases to be such a person as is mentioned in paragraph 3(2), then, if he is still in a position to discharge those obligations to any extent he remains responsible for discharging those obligations, and the provisions of this Schedule continue to apply to him, to that extent.

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PROSPECTIVE

SCHEDULE 5

Section 87.

TEXT OF PART II OF THE LANDLORD AND TENANT ACT 1987, AS AMENDED

**“PART II**

APPOINTMENT OF MANAGERS BY LEASEHOLD VALUATION TRIBUNAL

**Tenant’s right to apply to tribunal for appointment of manager.**

- 21 (1) The tenant of a flat contained in any premises to which this Part applies may, subject to the following provisions of this Part, apply to a leasehold valuation tribunal for an order under section 24 appointing a manager to act in relation to those premises.
- (2) Subject to subsection (3), this Part applies to premises consisting of the whole or part of a building if the building or part contains two or more flats.
- (3) This Part does not apply to any such premises at a time when—
- (a) the interest of the landlord in the premises is held by an exempt landlord or a resident landlord, or
  - (b) the premises are included within the functional land of any charity.
- (4) An application for an order under section 24 may be made—
- (a) jointly by tenants of two or more flats if they are each entitled to make such an application by virtue of this section, and
  - (b) in respect of two or more premises to which this Part applies;
- and, in relation to any such joint application as is mentioned in paragraph (a), references in this Part to a single tenant shall be construed accordingly.
- (5) Where the tenancy of a flat contained in any such premises is held by joint tenants, an application for an order under section 24 in respect of those premises may be made by any one or more of those tenants.
- (6) An application to the court for it to exercise in relation to any premises any jurisdiction to appoint a receiver or manager shall not be made by a tenant (in his capacity as such) in any circumstances in which an application could be made by him for an order under section 24 appointing a manager to act in relation to those premises.
- (7) References in this Part to a tenant do not include references to a tenant under a tenancy to which Part II of the <sup>M35</sup>Landlord and Tenant Act 1954 applies.

**Preliminary notice by tenant.**

- 22 (1) Before an application for an order under section 24 is made in respect of any premises to which this Part applies by a tenant of a flat contained in those premises, a notice under this section must (subject to subsection (3)) be served on the landlord by the tenant.



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- (2) A notice under this section must—
- (a) specify the tenant's name, the address of his flat and an address in England and Wales (which may be the address of his flat) at which the landlord may serve notices, including notices in proceedings, on him in connection with this Part;
  - (b) state that the tenant intends to make an application for an order under section 24 to be made by a leasehold valuation tribunal in respect of such premises to which this Part applies as are specified in the notice, but (if paragraph (d) is applicable) that he will not do so if the landlord complies with the requirement specified in pursuance of that paragraph;
  - (c) specify the grounds on which the tribunal would be asked to make such an order and the matters that would be relied on by the tenant for the purpose of establishing those grounds;
  - (d) where those matters are capable of being remedied by the landlord, require the landlord, within such reasonable period as is specified in the notice, to take such steps for the purpose of remedying them as are so specified; and
  - (e) contain such information (if any) as the Secretary of State may by regulations prescribe.
- (3) A leasehold valuation tribunal may (whether on the hearing of an application for an order under section 24 or not) by order dispense with the requirement to serve a notice under this section in a case where it is satisfied that it would not be reasonably practicable to serve such a notice on the landlord, but the tribunal may, when doing so, direct that such other notices are served, or such other steps are taken, as it thinks fit.
- (4) In a case where—
- (a) a notice under this section has been served on the landlord, and
  - (b) his interest in the premises specified in pursuance of subsection (2)(b) is subject to a mortgage,
- the landlord shall, as soon as is reasonably practicable after receiving the notice, serve on the mortgagee a copy of the notice.

#### **Application to tribunal for appointment of manager.**

- 23 (1) No application for an order under section 24 shall be made to a leasehold valuation tribunal unless—
- (a) in a case where a notice has been served under section 22, either—
    - (i) the period specified in pursuance of paragraph (d) of subsection (2) of that section has expired without the landlord having taken the steps that he was required to take in pursuance of that provision, or
    - (ii) that paragraph was not applicable in the circumstances of the case; or
  - (b) in a case where the requirement to serve such a notice has been dispensed with by an order under subsection (3) of that section, either—
    - (i) any notices required to be served, and any other steps required to be taken, by virtue of the order have been served or (as the case may be) taken, or
    - (ii) no direction was given by the tribunal when making the order.
- (2) Procedure regulations shall make provision—
- (a) for requiring notice of an application for an order under section 24 in respect of any premises to be served on such descriptions of persons as may be specified in the regulations; and

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- (b) for enabling persons served with any such notice to be joined as parties to the proceedings.

### **Appointment of manager by the tribunal.**

- 24 (1) A leasehold valuation tribunal may, on an application for an order under this section, by order (whether interlocutory or final) appoint a manager to carry out in relation to any premises to which this Part applies—
- (a) such functions in connection with the management of the premises, or
  - (b) such functions of a receiver,
- or both, as the tribunal thinks fit.
- (2) A leasehold valuation tribunal may only make an order under this section in the following circumstances, namely—
- (a) where the tribunal is satisfied—
    - (i) that the landlord either is in breach of any obligation owed by him to the tenant under his tenancy and relating to the management of the premises in question or any part of them or (in the case of an obligation dependent on notice) would be in breach of any such obligation but for the fact that it has not been reasonably practicable for the tenant to give him the appropriate notice, and
    - (ii) that it is just and convenient to make the order in all the circumstances of the case;
  - (ab) where the tribunal is satisfied—
    - (i) that unreasonable service charges have been made, or are proposed or likely to be made, and
    - (iii) that it is just and convenient to make the order in all the circumstances of the case;
  - (ac) where the tribunal is satisfied—
    - (i) that the landlord has failed to comply with any relevant provision of a code of practice approved by the Secretary of State under section 87 of the <sup>M36</sup>Leasehold Reform, Housing and Urban Development Act 1993 (codes of management practice), and
    - (ii) that it is just and convenient to make the order in all the circumstances of the case; or
  - (b) where the tribunal is satisfied that other circumstances exist which make it just and convenient for the order to be made.
- (2A) For the purposes of subsection (2)(ab) a service charge shall be taken to be unreasonable—
- (a) if the amount is unreasonable having regard to the items for which it is payable,
  - (b) if the items for which it is payable are of an unnecessarily high standard, or
  - (c) if the items for which it is payable are of an insufficient standard with the result that additional service charges are or may be incurred.

In that provision and this subsection “service charge” means a service charge within the meaning of section 18(1) of the <sup>M37</sup>Landlord and Tenant Act 1985, other than one excluded from that section by section 27 of that Act (rent of dwelling registered and not entered as variable).

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- (3) The premises in respect of which an order is made under this section may, if the tribunal thinks fit, be either more or less extensive than the premises specified in the application on which the order is made.
- (4) An order under this section may make provision with respect to—
  - (a) such matters relating to the exercise by the manager of his functions under the order, and
  - (b) such incidental or ancillary matters,as the tribunal thinks fit; and, on any subsequent application made for the purpose by the manager, the tribunal may give him directions with respect to any such matters.
- (5) Without prejudice to the generality of subsection (4), an order under this section may provide—
  - (a) for rights and liabilities arising under contracts to which the manager is not a party to become rights and liabilities of the manager;
  - (b) for the manager to be entitled to prosecute claims in respect of causes of action (whether contractual or tortious) accruing before or after the date of his appointment;
  - (c) for remuneration to be paid to the manager by the landlord, or by the tenants of the premises in respect of which the order is made or by all or any of those persons;
  - (d) for the manager's functions to be exercisable by him (subject to subsection (9)) either during a specified period or without limit of time.
- (6) Any such order may be granted subject to such conditions as the tribunal thinks fit, and in particular its operation may be suspended on terms fixed by the tribunal.
- (7) In a case where an application for an order under this section was preceded by the service of a notice under section 22, the tribunal may, if it thinks fit, make such an order notwithstanding—
  - (a) that any period specified in the notice in pursuance of subsection (2)(d) of that section was not a reasonable period, or
  - (b) that the notice failed in any other respect to comply with any requirement contained in subsection (2) of that section or in any regulations applying to the notice under section 54(3).
- (8) The <sup>M38</sup>Land Charges Act 1972 and the <sup>M39</sup>Land Registration Act 1925 shall apply in relation to an order made under this section as they apply in relation to an order appointing a receiver or sequestrator of land.
- (9) A leasehold valuation tribunal may, on the application of any person interested, vary or discharge (whether conditionally or unconditionally) an order made under this section; and if the order has been protected by an entry registered under the Land Charges Act 1972 or the Land Registration Act 1925, the tribunal may by order direct that the entry shall be cancelled.
- (9A) The court shall not vary or discharge an order under subsection (9) on a landlord's application unless it is satisfied—
  - (a) that the variation or discharge of the order will not result in a recurrence of the circumstances which led to the order being made, and
  - (b) that it is just and convenient in all the circumstances of the case to vary or discharge the order.

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- (10) An order made under this section shall not be discharged by a leasehold valuation tribunal by reason only that, by virtue of section 21(3), the premises in respect of which the order was made have ceased to be premises to which this Part applies.
- (11) References in this section to the management of any premises include references to the repair, maintenance or insurance of those premises.

#### **Jurisdiction of leasehold valuation tribunal.**

- 24A (1) The jurisdiction conferred by this Part on a leasehold valuation tribunal is exercisable by a rent assessment committee constituted in accordance with Schedule 10 to the Rent Act 1977 which when so constituted for the <sup>M40</sup> purposes of exercising any such jurisdiction shall be known as a leasehold valuation tribunal.
- (2) The power to make regulations under section 74(1)(b) of the Rent Act 1977 (procedure of rent assessment committees) extends to prescribing the procedure to be followed in connection with any proceedings before a leasehold valuation tribunal under this Part. Such regulations are referred to in this Part as “procedure regulations”.
- (3) Any order made by a leasehold valuation tribunal under this Part may, with the leave of the court, be enforced in the same way as an order of the county court.
- (4) No costs incurred by a party in connection with proceedings under this Part before a leasehold valuation tribunal shall be recoverable by order of any court.
- (5) Paragraphs 2, 3 and 7 of Schedule 22 to the <sup>M41</sup> Housing Act 1980 (supplementary provisions relating to leasehold valuation tribunals: appeals and provision of information) apply to a leasehold valuation tribunal constituted for the purposes of this section.
- (6) No appeal shall lie to the [<sup>F59</sup>Upper Tribunal] from a decision of a leasehold valuation tribunal under this Part without the leave of the leasehold valuation tribunal concerned or the [<sup>F59</sup>Upper Tribunal] .
- (7) On an appeal to the [<sup>F59</sup>Upper Tribunal] from a decision of a leasehold valuation tribunal under this Part—
- (a) the [<sup>F59</sup>Upper Tribunal] may exercise any power available to the leasehold valuation tribunal in relation to the original matter, and
  - (b) an order of the [<sup>F59</sup>Upper Tribunal] may be enforced in the same way as an order of the leasehold valuation tribunal.

#### **Leasehold valuation tribunal: applications and fees.**

- 24B (1) The Secretary of State may make provision by order as to the form of, or the particulars to be contained in, an application made to a leasehold valuation tribunal under this Part.
- (2) The Secretary of State may make provision by order—
- (a) requiring the payment of fees in respect of any such application, or in respect of any proceedings before, a leasehold valuation tribunal under this Part; and
  - (b) empowering a leasehold valuation tribunal to require a party to proceedings before it to reimburse any other party the amount of any fees paid by him.

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- (3) The fees payable shall be such as may be specified in or determined in accordance with the order subject to this limit, that the fees payable in respect of any one application or reference by the court together with any proceedings before the tribunal arising out of that application or reference shall not exceed £500 or such other amount as may be specified by order of the Secretary of State.
- (4) An order under this section may make different provision for different cases or classes of case or for different areas.
- (5) An order may, in particular, provide for the reduction or waiver of fees by reference to the financial resources of the party by whom they are to be paid or met.  
  
Any such order may apply, subject to such modifications as may be specified in the order, any other statutory means-testing regime as it has effect from time to time.
- (6) An order under this section shall be made by statutory instrument.
- (7) No order altering the limit under subsection (3) shall be made unless a draft of the order has been laid before and approved by a resolution of each House of Parliament.
- (8) Any other order under this section, unless it contains only such provision as is mentioned in subsection (1), shall be subject to annulment in pursuance of a resolution of either House of Parliament.”

#### Textual Amendments

**F59** Words in [Sch. 5](#) substituted (1.6.2009) by [The Transfer of Tribunal Functions \(Lands Tribunal and Miscellaneous Amendments\) Order 2009 \(S.I. 2009/1307\)](#), art. 1, [Sch. 1 para. 261](#) (with [Sch. 5](#))

#### Marginal Citations

**M35** 1954 c. 56.

**M36** 1993 c. 28.

**M37** 1985 c. 70.

**M38** 1972 c. 61.

**M39** 1925 c. 21.

**M40** 1977 c 42.

**M41** 1980 c. 51.

## SCHEDULE 6

Section 92(1).

### AMENDMENTS OF PART I OF THE LANDLORD AND TENANT ACT 1987

#### PART I

##### RIGHTS OF FIRST REFUSAL

The following sections are substituted for sections 5 to 10 of the <sup>M42</sup>Landlord and Tenant Act 1987—

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### *“ Rights of first refusal*

#### **5 Landlord required to serve offer notice on tenants.**

- (1) Where the landlord proposes to make a relevant disposal affecting premises to which this Part applies, he shall serve a notice under this section (an “offer notice”) on the qualifying tenants of the flats contained in the premises (the “constituent flats”).
- (2) An offer notice must comply with the requirements of whichever is applicable of the following sections—
  - section 5A (requirements in case of contract to be completed by conveyance, &c.),
  - section 5B (requirements in case of sale at auction),
  - section 5C (requirements in case of grant of option or right of pre-emption),
  - section 5D (requirements in case of conveyance not preceded by contract, &c.);
 and in the case of a disposal to which section 5E applies (disposal for non-monetary consideration) shall also comply with the requirements of that section.
- (3) Where a landlord proposes to effect a transaction involving the disposal of an estate or interest in more than one building (whether or not involving the same estate or interest), he shall, for the purpose of complying with this section, sever the transaction so as to deal with each building separately.
- (4) If, as a result of the offer notice being served on different tenants on different dates, the period specified in the notice as the period for accepting the offer would end on different dates, the notice shall have effect in relation to all the qualifying tenants on whom it is served as if it provided for that period to end with the latest of those dates.
- (5) A landlord who has not served an offer notice on all of the qualifying tenants on whom it was required to be served shall nevertheless be treated as having complied with this section—
  - (a) if he has served an offer notice on not less than 90% of the qualifying tenants on whom such a notice was required to be served, or
  - (b) where the qualifying tenants on whom it was required to be served number less than ten, if he has served such a notice on all but one of them.

#### **5A Offer notice: requirements in case of contract to be completed by conveyance, &c.**

- (1) The following requirements must be met in relation to an offer notice where the disposal consists of entering into a contract to create or transfer an estate or interest in land.
- (2) The notice must contain particulars of the principal terms of the disposal proposed by the landlord, including in particular—
  - (a) the property, and the estate or interest in that property, to which the contract relates,
  - (b) the principal terms of the contract (including the deposit and consideration required).
- (3) The notice must state that the notice constitutes an offer by the landlord to enter into a contract on those terms which may be accepted by the requisite majority of qualifying tenants of the constituent flats.

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- (4) The notice must specify a period within which that offer may be so accepted, being a period of not less than two months which is to begin with the date of service of the notice.
- (5) The notice must specify a further period of not less than two months within which a person or persons may be nominated by the tenants under section 6.
- (6) This section does not apply to the grant of an option or right of pre-emption (see section 5C).

#### **5B Offer notice: requirements in case of sale by auction.**

- (1) The following requirements must be met in relation to an offer notice where the landlord proposes to make the disposal by means of a sale at a public auction held in England and Wales.
- (2) The notice must contain particulars of the principal terms of the disposal proposed by the landlord, including in particular the property to which it relates and the estate or interest in that property proposed to be disposed of.
- (3) The notice must state that the disposal is proposed to be made by means of a sale at a public auction.
- (4) The notice must state that the notice constitutes an offer by the landlord, which may be accepted by the requisite majority of qualifying tenants of the constituent flats, for the contract (if any) entered into by the landlord at the auction to have effect as if a person or persons nominated by them, and not the purchaser, had entered into it.
- (5) The notice must specify a period within which that offer may be so accepted, being a period of not less than two months beginning with the date of service of the notice.
- (6) The notice must specify a further period of not less than 28 days within which a person or persons may be nominated by the tenants under section 6.
- (7) The notice must be served not less than four months or more than six months before the date of the auction; and—
  - (a) the period specified in the notice as the period within which the offer may be accepted must end not less than two months before the date of the auction, and
  - (b) the period specified in the notice as the period within which a person may be nominated under section 6 must end not less than 28 days before the date of the auction.
- (8) Unless the time and place of the auction and the name of the auctioneers are stated in the notice, the landlord shall, not less than 28 days before the date of the auction, serve on the requisite majority of qualifying tenants of the constituent flats a further notice stating those particulars.

#### **5C Offer notice: requirements in case of grant or option or right of pre-emption.**

- (1) The following requirements must be met in relation to an offer notice where the disposal consists of the grant of an option or right of pre-emption.
- (2) The notice must contain particulars of the principal terms of the disposal proposed by the landlord, including in particular—

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- (a) the property, and the estate or interest in that property, to which the option or right of pre-emption relates,
  - (b) the consideration required by the landlord for granting the option or right of pre-emption, and
  - (c) the principal terms on which the option or right of pre-emption would be exercisable, including the consideration payable on its exercise.
- (3) The notice must state that the notice constitutes an offer by the landlord to grant an option or right of pre-emption on those terms which may be accepted by the requisite majority of qualifying tenants of the constituent flats.
  - (4) The notice must specify a period within which that offer may be so accepted, being a period of not less than two months which is to begin with the date of service of the notice.
  - (5) The notice must specify a further period of not less than two months within which a person or persons may be nominated by the tenants under section 6.

**5D Offer notice: requirements in case of conveyance not preceded by contract, &c.**

- (1) The following requirements must be met in relation to an offer notice where the disposal is not made in pursuance of a contract, option or right of pre-emption binding on the landlord.
- (2) The notice must contain particulars of the principal terms of the disposal proposed by the landlord, including in particular—
  - (a) the property to which it relates and the estate or interest in that property proposed to be disposed of, and
  - (b) the consideration required by the landlord for making the disposal.
- (3) The notice must state that the notice constitutes an offer by the landlord to dispose of the property on those terms which may be accepted by the requisite majority of qualifying tenants of the constituent flats.
- (4) The notice must specify a period within which that offer may be so accepted, being a period of not less than two months which is to begin with the date of service of the notice.
- (5) The notice must specify a further period of not less than two months within which a person or persons may be nominated by the tenants under section 6.

**5E Offer notice: disposal for non-monetary consideration.**

- (1) This section applies where, in any case to which section 5 applies, the consideration required by the landlord for making the disposal does not consist, or does not wholly consist, of money.
- (2) The offer notice, in addition to complying with whichever is applicable of sections 5A to 5D, must state—
  - (a) that an election may be made under section 8C (explaining its effect), and
  - (b) that, accordingly, the notice also constitutes an offer by the landlord, which may be accepted by the requisite majority of qualifying tenants of the constituent flats, for a person or persons nominated by them to acquire the property in pursuance of sections 11 to 17.



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- (3) The notice must specify a period within which that offer may be so accepted, being a period of not less than two months which is to begin with the date of service of the notice.

## **6 Acceptance of landlord's offer: general provisions.**

- (1) Where a landlord has served an offer notice, he shall not during—
- (a) the period specified in the notice as the period during which the offer may be accepted, or
  - (b) such longer period as may be agreed between him and the requisite majority of the qualifying tenants of the constituent flats,
- dispose of the protected interest except to a person or persons nominated by the tenants under this section.
- (2) Where an acceptance notice is duly served on him, he shall not during the protected period (see subsection (4) below) dispose of the protected interest except to a person duly nominated for the purposes of this section by the requisite majority of qualifying tenants of the constituent flats (a “nominated person”).
- (3) An “acceptance notice” means a notice served on the landlord by the requisite majority of qualifying tenants of the constituent flats informing him that the persons by whom it is served accept the offer contained in his notice.

An acceptance notice is “duly served” if it is served within—

- (a) the period specified in the offer notice as the period within which the offer may be accepted, or
  - (b) such longer period as may be agreed between the landlord and the requisite majority of qualifying tenants of the constituent flats.
- (4) The “protected period” is the period beginning with the date of service of the acceptance notice and ending with—
- (a) the end of the period specified in the offer notice as the period for nominating a person under this section, or
  - (b) such later date as may be agreed between the landlord and the requisite majority of qualifying tenants of constituent flats.
- (5) A person is “duly nominated” for the purposes of this section if he is nominated at the same time as the acceptance notice is served or at any time after that notice is served and before the end of—
- (a) the period specified in the offer notice as the period for nomination, or
  - (b) such longer period as may be agreed between the landlord and the requisite majority of qualifying tenants of the constituent flats.
- (6) A person nominated for the purposes of this section by the requisite majority of qualifying tenants of the constituent flats may be replaced by another person so nominated if, and only if, he has (for any reason) ceased to be able to act as a nominated person.
- (7) Where two or more persons have been nominated and any of them ceases to act without being replaced, the remaining person or persons so nominated may continue to act.

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## **7 Failure to accept landlord's offer or to make nomination.**

- (1) Where a landlord has served an offer notice on the qualifying tenants of the constituent flats and—
  - (a) no acceptance notice is duly served on the landlord, or
  - (b) no person is nominated for the purposes of section 6 during the protected period, the landlord may, during the period of 12 months beginning with the end of that period, dispose of the protected interest to such person as he thinks fit, but subject to the following restrictions.
- (2) Where the offer notice was one to which section 5B applied (sale by auction), the restrictions are—
  - (a) that the disposal is made by means of a sale at a public auction, and
  - (b) that the other terms correspond to those specified in the offer notice.
- (3) In any other case the restrictions are—
  - (a) that the deposit and consideration required are not less than those specified in the offer notice, and
  - (b) that the other terms correspond to those specified in the offer notice.
- (4) The entitlement of a landlord, by virtue of this section or any other corresponding provision of this Part, to dispose of the protected interest during a specified period of 12 months extends only to a disposal of that interest, and accordingly the requirements of section 1(1) must be satisfied with respect to any other disposal by him during that period of 12 months (unless the disposal is not a relevant disposal affecting any premises to which at the time of the disposal this Part applies).

## **8 Landlord's obligations in case of acceptance and nomination.**

- (1) This section applies where a landlord serves an offer notice on the qualifying tenants of the constituent flat and—
  - (a) an acceptance notice is duly served on him, and
  - (b) a person is duly nominated for the purposes of section 6,by the requisite majority of qualifying tenants of the constituent flats.
- (2) Subject to the following provisions of this Part, the landlord shall not dispose of the protected interest except to the nominated person.
- (3) The landlord shall, within the period of one month beginning with the date of service of notice of nomination, either—
  - (a) serve notice on the nominated person indicating an intention no longer to proceed with the disposal of the protected interest, or
  - (b) be obliged to proceed in accordance with the following provisions of this Part.
- (4) A notice under subsection (3)(a) is a notice of withdrawal for the purposes of section 9B(2) to (4) (consequences of notice of withdrawal by landlord).
- (5) Nothing in this section shall be taken as prejudicing the application of the provisions of this Part to any further offer notice served by the landlord on the qualifying tenants of the constituent flats.

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## **8A Landlord’s obligation: general provisions.**

- (1) This section applies where the landlord is obliged to proceed and the offer notice was not one to which section 5B applied (sale by auction).
- (2) The landlord shall, within the period of one month beginning with the date of service of the notice of nomination, send to the nominated person a form of contract for the acquisition of the protected interest on the terms specified in the landlord’s offer notice.
- (3) If he fails to do so, the following provisions of this Part apply as if he had given notice under section 9B (notice of withdrawal by landlord) at the end of that period.
- (4) If the landlord complies with subsection (2), the nominated person shall, within the period of two months beginning with the date on which it is sent or such longer period beginning with that date as may be agreed between the landlord and that person, either—
  - (a) serve notice on the landlord indicating an intention no longer to proceed with the acquisition of the protected interest, or
  - (b) offer an exchange of contracts, that is to say, sign the contract and send it to the landlord, together with the requisite deposit.

In this subsection “the requisite deposit” means a deposit of an amount determined by or under the contract or an amount equal to 10 per cent of the consideration, whichever is the less.

- (5) If the nominated person—
  - (a) serves notice in pursuance of paragraph (a) of subsection (4), or
  - (b) fails to offer an exchange of contracts within the period specified in that subsection,the following provisions of this Part apply as if he had given notice under section 9A (withdrawal by nominated person) at the same time as that notice or, as the case may be, at the end of that period.
- (6) If the nominated person offers an exchange of contracts within the period specified in subsection (4), but the landlord fails to complete the exchange within the period of seven days beginning with the day on which he received that person’s contract, the following provisions of this Part apply as if the landlord had given notice under section 9B (withdrawal by landlord) at the end of that period.

## **8B Landlord’s obligation: election in case of sale at auction.**

- (1) This section applies where the landlord is obliged to proceed and the offer notice was one to which section 5B applied (sale by auction).
- (2) The nominated person may, by notice served on the landlord not less than 28 days before the date of the auction, elect that the provisions of this section shall apply.
- (3) If a contract for the disposal is entered into at the auction, the landlord shall, within the period of seven days beginning with the date of the auction, send a copy of the contract to the nominated person.
- (4) If, within the period of 28 days beginning with the date on which such a copy is so sent, the nominated person—
  - (a) serves notice on the landlord accepting the terms of the contract, and
  - (b) fulfils any conditions falling to be fulfilled by the purchaser on entering into the contract,

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the contract shall have effect as if the nominated person, and not the purchaser, had entered into the contract.

- (5) Unless otherwise agreed, any time limit in the contract as it has effect by virtue of subsection (4) shall start to run again on the service of notice under that subsection; and nothing in the contract as it has effect by virtue of a notice under this section shall require the nominated person to complete the purchase before the end of the period of 28 days beginning with the day on which he is deemed to have entered into the contract.
- (6) If the nominated person—
- (a) does not serve notice on the landlord under subsection (2) by the time mentioned in that subsection, or
  - (b) does not satisfy the requirements of subsection (4) within the period mentioned in that subsection,

the following provisions of this Part apply as if he had given notice under section 9A (withdrawal by nominated person) at the end of that period.

### **8C Election in case of disposal for non-monetary consideration.**

- (1) This section applies where an acceptance notice is duly served on the landlord indicating an intention to accept the offer referred to in section 5E (offer notice: disposal for non-monetary consideration).
- (2) The requisite majority of qualifying tenants of the constituent flats may, by notice served on the landlord within—
- (a) the period specified in the offer notice for nominating a person or persons for the purposes of section 6, or
  - (b) such longer period as may be agreed between the landlord and the requisite majority of qualifying tenants of the constituent flats,
- elect that the following provisions shall apply.
- (3) Where such an election is made and the landlord disposes of the protected interest on terms corresponding to those specified in his offer notice in accordance with section 5A, 5B, 5C or 5D, sections 11 to 17 shall have effect as if—
- (a) no notice under section 5 had been served;
  - (b) in section 11A(3) (period for serving notice requiring information, &c.), the reference to four months were a reference to 28 days; and
  - (c) in section 12A(2) and 12B(3) (period for exercise of tenants' rights against purchaser) each reference to six months were a reference to two months.
- (4) For the purposes of sections 11 to 17 as they have effect by virtue of subsection (3) so much of the consideration for the original disposal as did not consist of money shall be treated as such amount in money as was equivalent to its value in the hands of the landlord.

The landlord or the nominated person may apply to have that amount determined by a leasehold valuation tribunal.

### **8D Disposal in pursuance of option or right of pre-emption.**

- (1) Where—
- (a) the original disposal was the grant of an option or right of pre-emption, and

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- (b) in pursuance of the option or right, the landlord makes another disposal affecting the premises (“the later disposal”) before the end of the period specified in subsection (2),

sections 11 to 17 shall have effect as if the later disposal, and not the original disposal, were the relevant disposal.

- (2) The period referred to in subsection (1)(b) is the period of four months beginning with the date by which—
  - (a) notices under section 3A of the <sup>M43</sup>Landlord and Tenant Act 1985 (duty of new landlord to inform tenants of rights) relating to the original disposal, or
  - (b) where that section does not apply, documents of any other description—
    - (i) indicating that the original disposal has taken place, and
    - (ii) alerting the tenants to the existence of their rights under this Part and the time within which any such rights must be exercised,have been served on the requisite majority of qualifying tenants of the constituent flats.

#### **8E Covenant, &c affecting landlord’s power to dispose.**

- (1) Where the landlord is obliged to proceed but is precluded by a covenant, condition or other obligation from disposing of the protected interest to the nominated person unless the consent of some other person is obtained—
  - (a) he shall use his best endeavours to secure that the consent of that person to that disposal is given, and
  - (b) if it appears to him that that person is obliged not to withhold his consent unreasonably but has nevertheless so withheld it, he shall institute proceedings for a declaration to that effect.
- (2) Subsection (1) ceases to apply if a notice of withdrawal is served under section 9A or 9B (withdrawal of either party from transaction) or if notice is served under section 10 (lapse of landlord’s offer: premises ceasing to be premises to which this Part applies).
- (3) Where the landlord has discharged any duty imposed on him by subsection (1) but any such consent as is there mentioned has been withheld, and no such declaration as is there mentioned has been made, the landlord may serve a notice on the nominated person stating that to be the case.

When such a notice has been served, the landlord may, during the period of 12 months beginning with the date of service of the notice, dispose of the protected interest to such person as he thinks fit, but subject to the following restrictions.

- (4) Where the offer notice was one to which section 5B applied (sale by auction), the restrictions are—
  - (a) that the disposal is made by means of a sale at a public auction, and
  - (b) that the other terms correspond to those specified in the offer notice.
- (5) In any other case the restrictions are—
  - (a) that the deposit and consideration required are not less than those specified in the offer notice or, if higher, those agreed between the landlord and the nominated person (subject to contract), and
  - (b) that the other terms correspond to those specified in the offer notice.
- (6) Where notice is given under subsection (3), the landlord may recover from the nominated party and the qualifying tenants who served the acceptance notice any costs

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reasonably incurred by him in connection with the disposal between the end of the first four weeks of the nomination period and the time when that notice is served by him.

Any such liability of the nominated person and those tenants is a joint and several liability.

### **9A Notice of withdrawal by nominated person.**

- (1) Where the landlord is obliged to proceed, the nominated person may serve notice on the landlord (a “notice of withdrawal”) indicating his intention no longer to proceed with the acquisition of the protected interest.
- (2) If at any time the nominated person becomes aware that the number of the qualifying tenants of the constituent flats desiring to proceed with the acquisition of the protected interest is less than the requisite majority of qualifying tenants of those flats, he shall forthwith serve a notice of withdrawal.
- (3) Where notice of withdrawal is given by the nominated person under this section, the landlord may, during the period of 12 months beginning with the date of service of the notice, dispose of the protected interest to such person as he thinks fit, but subject to the following restrictions.
- (4) Where the offer notice was one to which section 5B applied (sale by auction), the restrictions are—
  - (a) that the disposal is made by means of a sale at a public auction, and
  - (b) that the other terms correspond to those specified in the offer notice.
- (5) In any other case the restrictions are—
  - (a) that the deposit and consideration required are not less than those specified in the offer notice or, if higher, those agreed between the landlord and the nominated person (subject to contract), and
  - (b) that the other terms correspond to those specified in the offer notice.
- (6) If notice of withdrawal is served under this section before the end of the first four weeks of the nomination period specified in the offer notice, the nominated person and the qualifying tenants who served the acceptance notice are not liable for any costs incurred by the landlord in connection with the disposal.
- (7) If notice of withdrawal is served under this section after the end of those four weeks, the landlord may recover from the nominated person and the qualifying tenants who served the acceptance notice any costs reasonably incurred by him in connection with the disposal between the end of those four weeks and the time when the notice of withdrawal was served on him.

Any such liability of the nominated person and those tenants is a joint and several liability.

- (8) This section does not apply after a binding contract for the disposal of the protected interest—
  - (a) has been entered into by the landlord and the nominated person, or
  - (b) has otherwise come into existence between the landlord and the nominated person by virtue of any provision of this Part.

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## **9B Notice of withdrawal by landlord.**

- (1) Where the landlord is obliged to proceed, he may serve notice on the nominated person (a “notice of withdrawal”) indicating his intention no longer to proceed with the disposal of the protected interest.
- (2) Where a notice of withdrawal is given by the landlord, he is not entitled to dispose of the protected interest during the period of 12 months beginning with the date of service of the notice.
- (3) If a notice of withdrawal is served before the end of the first four weeks of the nomination period specified in the offer notice, the landlord is not liable for any costs incurred in connection with the disposal by the nominated person and the qualifying tenants who served the acceptance notice.
- (4) If a notice of withdrawal is served after the end of those four weeks, the nominated person and the qualifying tenants who served the acceptance notice may recover from the landlord any costs reasonably incurred by them in connection with the disposal between the end of those four weeks and the time when the notice of withdrawal was served.
- (5) This section does not apply after a binding contract for the disposal of the protected interest—
  - (a) has been entered into by the landlord and the nominated person, or
  - (b) has otherwise come into existence between the landlord and the nominated person by virtue of any provision of this Part.

## **10 Lapse of landlord’s offer.**

- (1) If after a landlord has served an offer notice the premises concerned cease to be premises to which this Part applies, the landlord may serve a notice on the qualifying tenants of the constituent flats stating—
  - (a) that the premises have ceased to be premises to which this Part applies, and
  - (b) that the offer notice, and anything done in pursuance of it, is to be treated as not having been served or done;and on the service of such a notice the provisions of this Part cease to have effect in relation to that disposal.
- (2) A landlord who has not served such a notice on all of the qualifying tenants of the constituent flats shall nevertheless be treated as having duly served a notice under subsection (1)—
  - (a) if he has served such a notice on not less than 90% of those tenants, or
  - (b) where those qualifying tenants number less than ten, if he has served such a notice on all but one of them.
- (3) Where the landlord is entitled to serve a notice under subsection (1) but does not do so, this Part shall continue to have effect in relation to the disposal in question as if the premises in question were still premises to which this Part applies.
- (4) The above provisions of this section do not apply after a binding contract for the disposal of the protected interest—
  - (a) has been entered into by the landlord and the nominated person, or
  - (b) has otherwise come into existence between the landlord and the nominated person by virtue of any provision of this Part.

*Status: Point in time view as at 01/01/2003.*

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- (5) Where a binding contract for the disposal of the protected interest has been entered into between the landlord and the nominated person but it has been lawfully rescinded by the landlord, the landlord may, during the period of 12 months beginning with the date of the rescission of the contract, dispose of that interest to such person (and on such terms) as he thinks fit.”.

**Marginal Citations**

**M42** 1987 c. 31.

**M43** 1985 c 70.

## PART II

### ENFORCEMENT BY TENANTS OF RIGHTS AGAINST PURCHASER

The following sections are substituted for sections 11 to 15 of the <sup>M44</sup>Landlord and Tenant Act 1987—

*“ Enforcement by tenants of rights against purchaser*

#### **11 Circumstances in which tenants’ rights enforceable against purchaser**

- (1) The following provisions of this Part apply where a landlord has made a relevant disposal affecting premises to which at the time of the disposal this Part applied (“the original disposal”), and either—
- (a) no notice was served by the landlord under section 5 with respect to that disposal, or
  - (b) the disposal was made in contravention of any provision of sections 6 to 10, and the premises are still premises to which this Part applies.
- (2) In those circumstances the requisite majority of the qualifying tenants of the flats contained in the premises affected by the relevant disposal (the “constituent flats”) have the rights conferred by the following provisions—
- section 11A (right to information as to terms of disposal, &c.),
  - section 12A (right of qualifying tenants to take benefit of contract),
  - section 12B (right of qualifying tenants to compel sale, &c. by purchaser), and
  - section 12C (right of qualifying tenants to compel grant of new tenancy by superior landlord).
- (3) In those sections the transferee under the original disposal (or, in the case of the surrender of a tenancy, the superior landlord) is referred to as “the purchaser”.

This shall not be read as restricting the operation of those provisions to disposals for consideration.

#### **11A Right to information as to terms of disposal, &c.**

- (1) The requisite majority of qualifying tenants of the constituent flats may serve a notice on the purchaser requiring him—



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- (a) to give particulars of the terms on which the original disposal was made (including the deposit and consideration required) and the date on which it was made, and
  - (b) where the disposal consisted of entering into a contract, to provide a copy of the contract.
- (2) The notice must specify the name and address of the person to whom (on behalf of the tenants) the particulars are to be given, or the copy of the contract provided.
- (3) Any notice under this section must be served before the end of the period of four months beginning with the date by which—
  - (a) notices under section 3A of the <sup>M45</sup>Landlord and Tenant Act 1985 (duty of new landlord to inform tenants of rights) relating to the original disposal, or
  - (b) where that section does not apply, documents of any other description—
    - (i) indicating that the original disposal has taken place, and
    - (ii) alerting the tenants to the existence of their rights under this Part and the time within which any such rights must be exercised,have been served on the requisite majority of qualifying tenants of the constituent flats.
- (4) A person served with a notice under this section shall comply with it within the period of one month beginning with the date on which it is served on him.

## **12A Right of qualifying tenants to take benefit of contract.**

- (1) Where the original disposal consisted of entering into a contract, the requisite majority of qualifying tenants of the constituent flats may by notice to the landlord elect that the contract shall have effect as if entered into not with the purchaser but with a person or persons nominated for the purposes of this section by the requisite majority of qualifying tenants of the constituent flats.
- (2) Any such notice must be served before the end of the period of six months beginning—
  - (a) if a notice was served on the purchaser under section 11A (right to information as to terms of disposal, &c.), with the date on which the purchaser complied with that notice;
  - (b) in any other case, with the date by which documents of any description—
    - (i) indicating that the original disposal has taken place, and
    - (ii) alerting the tenants to the existence of their rights under this Part and the time within which any such rights must be exercised,have been served on the requisite majority of qualifying tenants of the constituent flats.
- (3) The notice shall not have effect as mentioned in subsection (1) unless the nominated person—
  - (a) fulfils any requirements as to the deposit required on entering into the contract, and
  - (b) fulfils any other conditions required to be fulfilled by the purchaser on entering into the contract.
- (4) Unless otherwise agreed, any time limit in the contract as it has effect by virtue of a notice under this section shall start to run again on the service of that notice; and nothing in the contract as it has effect by virtue of a notice under this section shall require the

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nominated person to complete the purchase before the end of the period of 28 days beginning with the day on which he is deemed to have entered into the contract.

- (5) Where the original disposal related to other property in addition to premises to which this Part applied at the time of the disposal—
- (a) a notice under this section has effect only in relation to the premises to which this Part applied at the time of the original disposal, and
  - (b) the terms of the contract shall have effect with any necessary modifications.

In such a case the notice under this section may specify the subject-matter of the disposal, and the terms on which the disposal is to be made (whether doing so expressly or by reference to the original disposal), or may provide for that estate or interest, or any such terms, to be determined by a leasehold valuation tribunal.

## **12B Right of qualifying tenants to compel sale, &c. by purchaser.**

- (1) This section applies where—
- (a) the original disposal consisted of entering into a contract and no notice has been served under section 12A (right of qualifying tenants to take benefit of contract), or
  - (b) the original disposal did not consist of entering into a contract.
- (2) The requisite majority of qualifying tenants of the constituent flats may serve a notice (a “purchase notice”) on the purchaser requiring him to dispose of the estate or interest that was the subject-matter of the original disposal, on the terms on which it was made (including those relating to the consideration payable), to a person or persons nominated for the purposes of this section by any such majority of qualifying tenants of those flats.
- (3) Any such notice must be served before the end of the period of six months beginning—
- (a) if a notice was served on the purchaser under section 11A (right to information as to terms of disposal, &c.), with the date on which the purchaser complied with that notice;
  - (b) in any other case, with the date by which—
    - (i) notices under section 3A of the <sup>M46</sup>Landlord and Tenant Act 1985 (duty of new landlord to inform tenants of rights) relating to the original disposal, or
    - (ii) where that section does not apply, documents of any other description indicating that the original disposal has taken place, and alerting the tenants to the existence of their rights under this Part and the time within which any such rights must be exercised,
 have been served on the requisite majority of qualifying tenants of the constituent flats.
- (4) A purchase notice shall where the original disposal related to other property in addition to premises to which this Part applied at the time of the disposal—
- (a) require the purchaser only to make a disposal relating to those premises, and
  - (b) require him to do so on the terms referred to in subsection (2) with any necessary modifications.

In such a case the purchase notice may specify the subject-matter of the disposal, and the terms on which the disposal is to be made (whether doing so expressly or by reference to the original disposal), or may provide for those matters to be determined by a leasehold valuation tribunal.

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- (5) Where the property which the purchaser is required to dispose of in pursuance of the purchase notice has since the original disposal become subject to any charge or other incumbrance, then, unless the court by order directs otherwise—
- (a) in the case of a charge to secure the payment of money or the performance of any other obligation by the purchaser or any other person, the instrument by virtue of which the property is disposed of by the purchaser to the person or persons nominated for the purposes of this section shall (subject to the provisions of Part I of Schedule 1) operate to discharge the property from that charge; and
  - (b) in the case of any other incumbrance, the property shall be so disposed of subject to the incumbrance but with a reduction in the consideration payable to the purchaser corresponding to the amount by which the existence of the incumbrance reduces the value of the property.
- (6) Subsection (5)(a) and Part I of Schedule 1 apply, with any necessary modifications, to mortgages and liens as they apply to charges; but nothing in those provisions applies to a rentcharge.
- (7) Where the property which the purchaser is required to dispose of in pursuance of the purchase notice has since the original disposal increased in monetary value owing to any change in circumstances (other than a change in the value of money), the amount of the consideration payable to the purchaser for the disposal by him of the property in pursuance of the purchase notice shall be the amount that might reasonably have been obtained on a corresponding disposal made on the open market at the time of the original disposal if the change in circumstances had already taken place.

## **12C Right of qualifying tenants to compel grant of new tenancy by superior landlord**

- (1) This section applies where the original disposal consisted of the surrender by the landlord of a tenancy held by him (“the relevant tenancy”).
- (2) The requisite majority of qualifying tenants of the constituent flats may serve a notice on the purchaser requiring him to grant a new tenancy of the premises which were subject to the relevant tenancy, on the same terms as those of the relevant tenancy and so as to expire on the same date as that tenancy would have expired, to a person or persons nominated for the purposes of this section by any such majority of qualifying tenants of those flats.
- (3) Any such notice must be served before the end of the period of six months beginning—
- (a) if a notice was served on the purchaser under section 11A (right to information as to terms of disposal, &c.), with the date on which the purchaser complied with that notice;
  - (b) in any other case, with the date by which documents of any description—
    - (i) indicating that the original disposal has taken place, and
    - (ii) alerting the tenants to the existence of their rights under this Part and the time within which any such rights must be exercised,have been served on the requisite majority of qualifying tenants of the constituent flats.
- (4) If the purchaser paid any amount to the landlord as consideration for the surrender by him of that tenancy, the nominated person shall pay that amount to the purchaser.

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- (5) Where the premises subject to the relevant tenancy included premises other than premises to which this Part applied at the time of the disposal, a notice under this section shall—
- (a) require the purchaser only to grant a new tenancy relating to the premises to which this Part then applied, and
  - (b) require him to do so on the terms referred to in subsection (2) subject to any necessary modifications.
- (6) The purchase notice may specify the subject-matter of the disposal, and the terms on which the disposal is to be made (whether doing so expressly or by reference to the original disposal), or may provide for those matters to be determined by a leasehold valuation tribunal.

#### **12D Nominated persons: supplementary provisions.**

- (1) The person or persons initially nominated for the purposes of section 12A, 12B or 12C shall be nominated in the notice under that section.
- (2) A person nominated for those purposes by the requisite majority of qualifying tenants of the constituent flats may be replaced by another person so nominated if, and only if, he has (for any reason) ceased to be able to act as a nominated person.
- (3) Where two or more persons have been nominated and any of them ceases to act without being replaced, the remaining person or persons so nominated may continue to act.
- (4) Where, in the exercise of its power to award costs, the court or the Lands Tribunal makes, in connection with any proceedings arising under or by virtue of this Part, an award of costs against the person or persons so nominated, the liability for those costs is a joint and several liability of that person or those persons together with the qualifying tenants by whom the relevant notice was served.

#### **13 Determination of questions by leasehold valuation tribunal.**

- (1) A leasehold valuation tribunal has jurisdiction to hear and determine—
  - (a) any question arising in relation to any matters specified in a notice under section 12A, 12B or 12C, and
  - (b) any question arising for determination as mentioned in section 8C(4), 12A(5) or 12B(4) (matters left for determination by tribunal).
- (2) On an application under this section the interests of the persons by whom the notice was served under section 12A, 12B or 12C shall be represented by the nominated person; and accordingly the parties to any such application shall not include those persons.

#### **14 Withdrawal of nominated person from transaction under s.12B or 12C.**

- (1) Where notice has been duly served on the landlord under—
 

section 12B (right of qualifying tenants to compel sale, &c by purchaser), or  
 section 12C (right of qualifying tenants to compel grant of new tenancy by superior landlord),

the nominated person may at any time before a binding contract is entered into in pursuance of the notice, serve notice under this section on the purchaser (a “notice of withdrawal”) indicating an intention no longer to proceed with the disposal.

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- (2) If at any such time the nominated person becomes aware that the number of qualifying tenants of the constituent flats desiring to proceed with the disposal is less than the requisite majority of those tenants, he shall forthwith serve a notice of withdrawal.
- (3) If a notice of withdrawal is served under this section the purchaser may recover from the nominated person any costs reasonably incurred by him in connection with the disposal down to the time when the notice is served on him.
- (4) If a notice of withdrawal is served at a time when proceedings arising under or by virtue of this Part are pending before the court or the Lands Tribunal, the liability of the nominated person for any costs incurred by the purchaser as mentioned in subsection (3) shall be such as may be determined by the court or (as the case may be) by the Tribunal.
- (5) The costs that may be recovered by the purchaser under this section do not include any costs incurred by him in connection with an application to a leasehold valuation tribunal.”.

#### **Marginal Citations**

**M44** 1987 c 31.

**M45** 1985 c 70.

**M46** 1985 c 70.

### **PART III**

#### **ENFORCEMENT OF RIGHTS AGAINST SUBSEQUENT PURCHASERS AND TERMINATION OF RIGHTS**

The following sections replace sections 16 and 17 of the <sup>M47</sup>Landlord and Tenant Act 1987—

*“ Enforcement by tenants of rights against subsequent purchasers*

#### **16 Rights of qualifying tenants against subsequent purchaser.**

- (1) This section applies where, at the time when a notice is served on the purchaser under section 11A, 12A, 12B or 12C, he no longer holds the estate or interest that was the subject-matter of the original disposal.
- (2) In the case of a notice under section 11A (right to information as to terms of disposal, &c.) the purchaser shall, within the period for complying with that notice—
  - (a) serve notice on the person specified in the notice as the person to whom particulars are to be provided of the name and address of the person to whom he has disposed of that estate or interest (“the subsequent purchaser”), and
  - (b) serve on the subsequent purchaser a copy of the notice under section 11A and of the particulars given by him in response to it.
- (3) In the case of a notice under section 12A, 12B or 12C the purchaser shall forthwith—
  - (a) forward the notice to the subsequent purchaser, and
  - (b) serve on the nominated person notice of the name and address of the subsequent purchaser.

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- (4) Once the purchaser serves a notice in accordance with subsection (2)(a) or (3)(b), sections 12A to 14 shall, instead of applying to the purchaser, apply to the subsequent purchaser as if he were the transferee under the original disposal.
- (5) Subsections (1) to (4) have effect, with any necessary modifications, in a case where, instead of disposing of the whole of the estate or interest referred to in subsection (1) to another person, the purchaser has disposed of it in part or in parts to one or more other persons.

In such a case, sections 12A to 14—

- (a) apply to the purchaser in relation to any part of that estate or interest retained by him, and
- (b) in relation to any part of that estate or interest disposed of to any other person, apply to that other person instead as if he were (as respects that part) the transferee under the original disposal.

*Termination of rights against purchasers or subsequent purchasers*

**17 Termination of rights against purchaser or subsequent purchaser.**

- (1) If, at any time after a notice has been served under section 11A, 12A, 12B or 12C, the premises affected by the original disposal cease to be premises to which this Part applies, the purchaser may serve a notice on the qualifying tenants of the constituent flats stating—
- (a) that the premises have ceased to be premises to which this Part applies, and
  - (b) that any such notice served on him, and anything done in pursuance of it, is to be treated as not having been served or done.
- (2) A landlord who has not served such a notice on all of the qualifying tenants of the constituent flats shall nevertheless be treated as having duly served a notice under subsection (1)—
- (a) if he has served such a notice on not less than 90% of those tenants, or
  - (b) where those qualifying tenants number less than ten, if he has served such a notice on all but one of them.
- (3) Where a period of three months beginning with the date of service of a notice under section 12A, 12B or 12C on the purchaser has expired—
- (a) without any binding contract having been entered into between the purchaser and the nominated person, and
  - (b) without there having been made any application in connection with the notice to the court or to a leasehold valuation tribunal,
- the purchaser may serve on the nominated person a notice stating that the notice, and anything done in pursuance of it, is to be treated as not having been served or done.
- (4) Where any such application as is mentioned in subsection (3)(b) was made within the period of three months referred to in that subsection, but—
- (a) a period of two months beginning with the date of the determination of that application has expired,
  - (b) no binding contract has been entered into between the purchaser and the nominated person, and
  - (c) no other such application as is mentioned in subsection (3)(b) is pending,

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the purchaser may serve on the nominated person a notice stating that any notice served on him under section 12A, 12B or 12C, and anything done in pursuance of any such notice, is to be treated as not having been served or done.

- (5) Where the purchaser serves a notice in accordance with subsection (1), (3) or (4), this Part shall cease to have effect in relation to him in connection with the original disposal.
- (6) Where a purchaser is entitled to serve a notice under subsection (1) but does not do so, this Part shall continue to have effect in relation to him in connection with the original disposal as if the premises in question were still premises to which this Part applies.
- (7) References in this section to the purchaser include a subsequent purchaser to whom sections 12A to 14 apply by virtue of section 16(4) or (5).”.

**Marginal Citations**

M47 1987 c. 31.

## PART IV

### CONSEQUENTIAL AMENDMENTS

- 1 In section 4(2) of the <sup>M48</sup>Landlord and Tenant Act 1987 (relevant disposals: excluded disposals), in paragraph (aa) (disposals by way of security for a loan) omit the words “consisting of the creation of an estate or interest”.

**Marginal Citations**

M48 1987 c. 31.

- 2 Before section 19 of the Landlord and Tenant Act 1987, under the heading “*Supplementary provisions*”, insert—

**The requisite majority of qualifying tenants.**

“18A(1) In this Part “the requisite majority of qualifying tenants of the constituent flats” means qualifying tenants of constituent flats with more than 50 per cent. of the available votes.

- (2) The total number of available votes shall be determined as follows—
  - (a) where an offer notice has been served under section 5, that number is equal to the total number of constituent flats let to qualifying tenants on the date when the period specified in that notice as the period for accepting the offer expires;
  - (b) where a notice is served under section 11A without a notice having been previously served under section 5, that number is equal to the total number of constituent flats let to qualifying tenants on the date of service of the notice under section 11A;
  - (c) where a notice is served under section 12A, 12B or 12C without a notice having been previously served under section 5 or section 11A, that number is equal to the total number of constituent flats let

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to qualifying tenants on the date of service of the notice under section 12A, 12B or 12C, as the case may be.

- (3) There is one available vote in respect of each of the flats so let on the date referred to in the relevant paragraph of subsection (2), which shall be attributed to the qualifying tenant to whom it is let.
- (4) The persons constituting the requisite majority of qualifying tenants for one purpose may be different from the persons constituting such a majority for another purpose.”.
- 3 (1) Section 20(1) of the <sup>M49</sup>Landlord and Tenant Act 1987 (interpretation of Part I) is amended as follows.
- (2) For the definition of “acceptance notice” substitute—
- ““acceptance notice” has the meaning given by section 6(3);”.
- (3) For the definition of “constituent flat” substitute—
- ““constituent flat” shall be construed in accordance with section 5(1) or 11(2), as the case may require;”.
- (4) Omit the definition of “the new landlord”.
- (5) After that definition insert—
- ““the nominated person” means the person or persons for the time being nominated by the requisite majority of the qualifying tenants of the constituent flats for the purposes of section 6, 12A, 12B or 12C, as the case may require;”.
- (6) For the definition of “the protected interest” substitute—
- ““the protected interest” means the estate, interest or other subject-matter of an offer notice;”.
- (7) After that definition insert—
- ““the protected period” has the meaning given by section 6(4);”.
- (8) For the definition of “purchase notice” substitute—
- ““purchase notice” has the meaning given by section 12B(2);”.
- (9) After that definition insert—
- ““purchaser” has the meaning given by section 11(3);”.
- (10) In the definition of “the requisite majority” for “section 5(6) and (7)” substitute “section 18A ”.

**Marginal Citations**

**M49** 1987 c. 31.

- 4 In section 20(2) of the Landlord and Tenant Act 1987, omit the words “or counter-offer” in each place where they occur.



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- 5 In Part III of the Landlord and Tenant Act 1987 (compulsory acquisition by tenants of their landlord's interest), in section 31 (determination of terms by rent assessment committees)—
- (a) for “rent assessment committee”, wherever occurring, substitute “leasehold valuation tribunal”;
  - (b) for “such a committee” or “the committee”, wherever occurring, substitute “the tribunal”; and
  - (c) omit subsection (5).
- 6 In section 52(1) of the Landlord and Tenant Act 1987 (jurisdiction of county courts) for “rent assessment committee” substitute “leasehold valuation tribunal”.
- 7 After section 52 of the Landlord and Tenant Act 1987 insert—

#### “52A Jurisdiction of leasehold valuation tribunal under Part I or III.

- (1) Any jurisdiction conferred by Part I or III of this Act on a leasehold valuation tribunal is exercisable by a rent assessment committee constituted in accordance with Schedule 10 to the <sup>M50</sup>Rent Act 1977 which when so constituted for the purposes of exercising any such jurisdiction shall be known as a leasehold valuation tribunal.
- (2) The power to make regulations under section 74(1)(b) of the Rent Act 1977 (procedure of rent assessment committees) extends to prescribing the procedure to be followed in connection with any proceedings before a leasehold valuation tribunal under this Act.
- (3) Any application under this Act to a leasehold valuation tribunal must be in such form, and contain such particulars, as the Secretary of State may by regulations prescribe.
- (4) Any costs incurred by a party to any such application in connection with the application shall be borne by that party.
- (5) Paragraphs 1, 2, 3 and 7 of Schedule 22 to the <sup>M51</sup>Housing Act 1980 (supplementary provisions relating to leasehold valuation tribunals: constitution, appeals and provision of information) apply to a leasehold valuation tribunal constituted for the purposes of this section.”.

#### Commencement Information

**I18** Sch. 6 Pt. IV para. 7 wholly in force 1.10.1996; Sch. 6 Pt. IV para. 7 not in force at Royal Assent see s. 232(1)-(3); Sch. 6 Pt. IV para. 7 in force for certain purposes at 23.8.1996 and in force so far as not already in force at 1.10.1996 by S.I. 1996/2212, art. 2(1)(2)

#### Marginal Citations

**M50** 1977 c. 42.

**M51** 1980 c. 51.

- 8 In section 53(2)(b) of the <sup>M52</sup>Landlord and Tenant Act 1987 (regulations subject to negative resolution), for the words from “section 13(2)” to “section 31)” substitute “section 52A(3)”.

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### Marginal Citations

**M52** 1987 c. 31.

- 9 In section 54(4) of the Landlord and Tenant Act 1987 (saving for power under section 20(4)) for “either of the periods specified in section 5(2)” substitute “ any of the periods specified in section 5A(4) or (5), 5B(5) or (6), 5C(4) or (5), 5D(4) or (5) or 5E(3) ”.
- 10 In section 60(1) of the Landlord and Tenant Act 1987 (general interpretation), omit the definition of “rent assessment committee”.
- 11 (1) In Schedule 1 to the Landlord and Tenant Act 1987 (discharge of mortgages, &c), in paragraph 1 (construction of provisions relating to discharge in pursuance of purchase notice)—
- (a) for the words “the new landlord” wherever they appear substitute “ the purchaser ”;
  - (b) in the definition of “consideration payable”—
    - (i) for the words “section 12(4)” substitute “ section 12B(7) ”, and
    - (ii) for the words “section 16(2) or (3)” substitute “ section 16(4) or (5) ”.
  - (c) in the definition of “nominated person”, for the words “section 12(1)” substitute “ section 12B(2) ”.
- (2) In paragraphs 2, 4 and 5 of that Schedule (duty of nominated person to redeem mortgages, payments into court and savings)—
- (a) for the words “section 12(4)(a)” wherever they appear substitute “ section 12B(5)(a) ”;
  - (b) for the words “the new landlord” or “the new landlord’s” wherever they appear substitute “ the purchaser ” or “ the purchaser’s ”.

## SCHEDULE 7

Section 96.

### ASSURED TENANCIES: SCHEDULE INSERTED AFTER SCHEDULE 2 TO THE HOUSING ACT 1988

### Commencement Information

**I19** [Sch. 7](#) wholly in force 28.2.1997; [Sch. 7](#) not in force at Royal Assent see [s. 232\(1\)-\(3\)](#); [Sch. 7](#) in force for certain purposes at 23.8.1996 by [S.I. 1996/2212](#), [art. 2\(1\)](#) and in force at 28.2.1997 to the extent it is not already in force by [S.I. 1997/225](#), [art. 2](#)

## “SCHEDULE 2A

### ASSURED TENANCIES: NON-SHORTHOLDS

#### *Tenancies excluded by notice*

- 1 (1) An assured tenancy in respect of which a notice is served as mentioned in sub-paragraph (2) below.

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- (2) The notice referred to in sub-paragraph (1) above is one which—
- (a) is served before the assured tenancy is entered into,
  - (b) is served by the person who is to be the landlord under the assured tenancy on the person who is to be the tenant under that tenancy, and
  - (c) states that the assured tenancy to which it relates is not to be an assured shorthold tenancy.
- 2 (1) An assured tenancy in respect of which a notice is served as mentioned in sub-paragraph (2) below.
- (2) The notice referred to in sub-paragraph (1) above is one which—
- (a) is served after the assured tenancy has been entered into,
  - (b) is served by the landlord under the assured tenancy on the tenant under that tenancy, and
  - (c) states that the assured tenancy to which it relates is no longer an assured shorthold tenancy.

*Tenancies containing exclusionary provision*

- 3 An assured tenancy which contains a provision to the effect that the tenancy is not an assured shorthold tenancy.

*Tenancies under section 39*

- 4 An assured tenancy arising by virtue of section 39 above, other than one to which subsection (7) of that section applies.

*Former secure tenancies*

- 5 An assured tenancy which became an assured tenancy on ceasing to be a secure tenancy.

*Tenancies under Schedule 10 to the Local Government and Housing Act 1989*

- 6 An assured tenancy arising by virtue of Schedule 10 to the <sup>M53</sup>Local Government and Housing Act 1989 (security of tenure on ending of long residential tenancies).

*Tenancies replacing non-shortholds*

- 7 (1) An assured tenancy which—
- (a) is granted to a person (alone or jointly with others) who, immediately before the tenancy was granted, was the tenant (or, in the case of joint tenants, one of the tenants) under an assured tenancy other than a shorthold tenancy (“the old tenancy”),
  - (b) is granted (alone or jointly with others) by a person who was at that time the landlord (or one of the joint landlords) under the old tenancy, and
  - (c) is not one in respect of which a notice is served as mentioned in sub-paragraph (2) below.
- (2) The notice referred to in sub-paragraph (1)(c) above is one which—
- (a) is in such form as may be prescribed,
  - (b) is served before the assured tenancy is entered into,

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- (c) is served by the person who is to be the tenant under the assured tenancy on the person who is to be the landlord under that tenancy (or, in the case of joint landlords, on at least one of the persons who are to be joint landlords), and
  - (d) states that the assured tenancy to which it relates is to be a shorthold tenancy.
- 8 An assured tenancy which comes into being by virtue of section 5 above on the coming to an end of an assured tenancy which is not a shorthold tenancy.

*Assured agricultural occupancies*

- 9 (1) An assured tenancy—
- (a) in the case of which the agricultural worker condition is, by virtue of any provision of Schedule 3 to this Act, for the time being fulfilled with respect to the dwelling-house subject to the tenancy, and
  - (b) which does not fall within sub-paragraph (2) or (4) below.
- (2) An assured tenancy falls within this sub-paragraph if—
- (a) before it is entered into, a notice—
    - (i) in such form as may be prescribed, and
    - (ii) stating that the tenancy is to be a shorthold tenancy,
 is served by the person who is to be the landlord under the tenancy on the person who is to be the tenant under it, and
  - (b) it is not an excepted tenancy.
- (3) For the purposes of sub-paragraph (2)(b) above, an assured tenancy is an excepted tenancy if—
- (a) the person to whom it is granted or, as the case may be, at least one of the persons to whom it is granted was, immediately before it is granted, a tenant or licensee under an assured agricultural occupancy, and
  - (b) the person by whom it is granted or, as the case may be, at least one of the persons by whom it is granted was, immediately before it is granted, a landlord or licensor under the assured agricultural occupancy referred to in paragraph (a) above.
- (4) An assured tenancy falls within this sub-paragraph if it comes into being by virtue of section 5 above on the coming to an end of a tenancy falling within sub-paragraph (2) above.”

**Marginal Citations**

M53 1989 c. 42.

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## SCHEDULE 8

Section 104.

### ASSURED TENANCIES: CONSEQUENTIAL AMENDMENTS

#### *Housing Act 1985 (c.68)*

1 In section 553(2) of the Housing Act 1985, for paragraph (c) there shall be substituted—

“(c) the tenancy is not by virtue of any provision of Part I of the Housing Act 1988 an assured shorthold tenancy;”.

#### *Housing Act 1988 (c.50)*

2 (1) The Housing Act 1988 shall be amended as follows.

(2) In section 14, there shall be inserted at the end—

“(9) This section shall apply in relation to an assured shorthold tenancy as if in subsection (1) the reference to an assured tenancy were a reference to an assured shorthold tenancy.”.

(3) In section 20, for the side-note and subsection (1) there shall be substituted—

#### **“20 Assured shorthold tenancies: pre-Housing Act 1996 tenancies.**

(1) Subject to subsection (3) below, an assured tenancy which is not one to which section 19A above applies is an assured shorthold tenancy if—

- (a) it is a fixed term tenancy granted for a term certain of not less than six months,
- (b) there is no power for the landlord to determine the tenancy at any time earlier than six months from the beginning of the tenancy, and
- (c) a notice in respect of it is served as mentioned in subsection (2) below.”.

(4) In that section, after subsection (5) there shall be inserted—

“(5A) Subsections (3) and (4) above do not apply where the new tenancy is one to which section 19A above applies.”.

(5) In section 22, in subsection (1), the words from “in respect of” to “above” shall be omitted.

(6) In that section, after subsection (5) there shall be inserted—

“(5A) Where—

- (a) an assured tenancy ceases to be an assured shorthold tenancy by virtue of falling within paragraph 2 of Schedule 2A to this Act, and
- (b) at the time when it so ceases to be an assured shorthold tenancy there is pending before a rent assessment committee an application in relation to it under this section,

the fact that it so ceases to be an assured shorthold tenancy shall, in relation to that application, be disregarded for the purposes of this section.”.

(7) In section 34(3), after “whether or not” there shall be inserted “, in the case of a tenancy to which the provision applies, ”.

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- (8) In section 39(7), after “whether or not” there shall be inserted “, in the case of a tenancy to which the provision applies,”.

## SCHEDULE 9

Section 106.

### LOW RENT TEST: EXTENSION OF RIGHTS

#### *Right to enfranchisement*

1 In the <sup>M54</sup>Leasehold Reform Act 1967, after section 1A there shall be inserted—

**“1AA Additional right to enfranchisement only in case of houses whose rent exceeds applicable limit under section 4.**

(1) Where—

- (a) section 1(1) above would apply in the case of the tenant of a house but for the fact that the tenancy is not a tenancy at a low rent, and
- (b) the tenancy falls within subsection (2) below and is not an excluded tenancy,

this Part of this Act shall have effect to confer on the tenant the same right to acquire the freehold of the house and premises as would be conferred by section 1(1) above if it were a tenancy at a low rent.

(2) A tenancy falls within this subsection if—

- (a) it is granted for a term of years certain exceeding thirty-five years, whether or not it is (or may become) terminable before the end of that term by notice given by or to the tenant or by re-entry, forfeiture or otherwise,
- (b) it is for a term fixed by law under a grant with a covenant or obligation for perpetual renewal, unless it is a tenancy by sub-demise from one which is not a tenancy which falls within this subsection,
- (c) it is a tenancy taking effect under section 149(6) of the <sup>M55</sup>Law of Property Act 1925 (leases terminable after a death or marriage), or
- (d) it is a tenancy which—
  - (i) is or has been granted for a term of years certain not exceeding thirty-five years, but with a covenant or obligation for renewal without payment of a premium (but not for perpetual renewal), and
  - (ii) is or has been once or more renewed so as to bring to more than thirty-five years the total of the terms granted (including any interval between the end of a tenancy and the grant of a renewal).

(3) A tenancy is an excluded tenancy for the purposes of subsection (1) above if—

- (a) the house which the tenant occupies under the tenancy is in an area designated for the purposes of this provision as a rural area by order made by the Secretary of State,

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- (b) the freehold of that house is owned together with adjoining land which is not occupied for residential purposes and has been owned together with such land since the coming into force of section 106 of the Housing Act 1996, and
  - (c) the tenancy was granted on or before the day on which that section came into force.
- (4) Where this Part of this Act applies as if there were a single tenancy of property comprised in two or more separate tenancies, then, if each of the separate tenancies falls within subsection (2) above, this section shall apply as if the single tenancy did so.
- (5) The power to make an order under subsection (3) above shall be exercisable by statutory instrument which shall be subject to annulment in pursuance of a resolution of either House of Parliament.”.

#### Commencement Information

**I20** Sch. 9 para. 1 wholly in force 1.4.1997; Sch. 9 para. 1 not in force at Royal Assent see s. 232(1)-(3); Sch. 9 para. 1 in force for certain purposes at 23.8.1996 by S.I. 1996/2212, art. 2(1) and in force at 1.4.1997 to the extent not already in force by S.I. 1997/618, art. 2 (subject to the limitation in (2) of that art.)

#### Marginal Citations

**M54** 1967 c. 88.

**M55** 1925 c. 20.

- 2 (1) In consequence of paragraph 1 above, the <sup>M56</sup>Leasehold Reform Act 1967 shall be amended as follows.
- (2) In section 1(3A)(b) (extension of rights not to apply to existing lettings by charitable housing trusts), after “1A” there shall be inserted “, 1AA ”.
  - (3) In section 3(3) (provision for aggregation of successive tenancies), after “this Part of this Act” there shall be inserted “, except section 1AA, ”.
  - (4) In section 9(1C) (price payable by tenant on enfranchisement by virtue of section 1A or 1B), after “1A” there shall be inserted “, 1AA ”.
  - (5) In section 9A(1) (compensation payable where right to enfranchisement arises by virtue of section 1A or 1B), after “1A” there shall be inserted “, 1AA ”.
  - (6) In section 32A(1)(b) (extensions to right to enfranchisement not to apply in relation to existing tenancies of property transferred for public benefit), at the end there shall be inserted “ or if section 1AA above were not in force ”.
  - (7) In section 37(4) (treatment for the purposes of Part I of tenancy granted to continue as a periodical tenancy after the expiration of a term of years certain), after “this Part of this Act” there shall be inserted “, except section 1AA, ”.
  - (8) In Part II of Schedule 3 (procedural provisions), in paragraph 6 (which makes provision about the contents of a tenant’s notice under Part I), after sub-paragraph (1) there shall be inserted—

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“(1A) Where the tenant gives the notice by virtue of section 1AA of this Act, sub-paragraph (1) above shall have effect with the substitution for paragraph (b) of—

“(“ such particulars of the tenancy as serve to identify the instrument creating the tenancy and show that the tenancy is one in relation to which section 1AA(1) of this Act has effect to confer a right to acquire the freehold of the house and premises;”.”.

(9) In that Part of that Schedule, in paragraph 7(4) (admission in landlord’s notice of tenant’s right to have freehold to be binding on landlord, so far as relating to matters mentioned in section 1(1)(a) and (b)), for “mentioned in section 1(1)(a) and (b) of this Act” there shall be substituted “relevant to the existence of that right ”.

**Marginal Citations**  
M56 1967 c. 88.

*Right to collective enfranchisement*

F60 3 .....

**Textual Amendments**  
F60 Sch. 9 para. 3 repealed (26.7.2002 for E. and 1.1.2003 for W.) by 2002 c. 15, s. 180, Sch. 14; S.I. 2002/1912, arts. 1(2), 2(b)(ii), Sch. 1 Pt. 1 (subject to the transitional provisions and savings in Sch. 2); S.I. 2002/3012, arts. 1(2), 2(b)(ii), Sch. 1 Pt. 1 (subject to the transitional provisions and savings in Sch. 2)

*Right to new lease*

F61 4 .....

**Textual Amendments**  
F61 Sch. 9 para. 4 repealed (26.7.2002 for E. and 1.1.2003 for W.) by 2002 c. 15, s. 180, Sch. 14; S.I. 2002/1912, arts. 1(2), 2(b)(ii), Sch. 1 Pt. 2 (subject to transitional provisions and savings in Sch. 2); S.I. 2002/3012, arts. 1(2), 2(b)(ii), Sch. 1 Pt. 2 (subject to transitional provisions and savings in Sch. 2)

5 (1) In Chapter VII of that Part (general), section 94 (Crown land) shall be amended as follows.

F62 (2) .....

F62 (3) .....

(4) For subsection (12) there shall be substituted—

“(12) For the purposes of this section “long lease which is at a low rent or for a particularly long term” shall be construed in accordance with sections 7, 8 and 8A.”.



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### Textual Amendments

- F62** Sch. 9 para. 5(2)(3) repealed (26.7.2002 for E. and 1.1.2003 for W.) by 2002 c. 15, s. 180, Sch. 14; S.I. 2002/1912, arts. 1(2), 2(b)(ii), Sch. 1 Pt. 1 (with transitional provisions and savings in Sch. 2); S.I. 2002/3012, arts. 1(2), 2(b)(ii), Sch. 1 Pt. 1 (with transitional provisions and savings in Sch. 2)

## SCHEDULE 10

Section 107.

### SECTION 107: CONSEQUENTIAL AMENDMENTS

- 1 Chapter I of Part I of the <sup>M57</sup>Leasehold Reform, Housing and Urban Development Act 1993 shall be amended as follows.

### Marginal Citations

- M57** 1993 c. 28.

- 2 In section 1(4) (right to acquire additional property satisfied by grant of rights over that property or other property)—
- (a) in paragraph (a), for “freeholder” there shall be substituted “ person who owns the freehold of that property ”, and
  - (b) in paragraph (b), for “freeholder” there shall be substituted “ person who owns the freehold of that property ”.
- 3 (1) Section 9 (the reversioner and other relevant landlords) shall be amended as follows.
- (2) In subsection (1), after “any premises” there shall be inserted “ the freehold of the whole of which is owned by the same person ”.
- (3) In subsection (2)—
- (a) after “such claim” there shall be inserted “ as is mentioned in subsection (1) ”, and
  - (b) in paragraph (b), after “premises,” there shall be inserted “ every person who owns any freehold interest which it is proposed to acquire by virtue of section 1(2)(a), ”.
- (4) After that subsection there shall be inserted—
- “(2A) In the case of any claim to exercise the right to collective enfranchisement in relation to any premises the freehold of the whole of which is not owned by the same person—
- (a) the reversioner in respect of the premises shall for the purposes of this Chapter be the person identified as such by Part IA of Schedule 1 to this Act, and
  - (b) every person who owns a freehold interest in the premises, every person who owns any freehold interest which it is proposed to acquire by virtue of section 1(2)(a), and every person who owns any leasehold interest which it is proposed to acquire under or by virtue of section 2(1)(a) or (b), shall be a relevant landlord for those purposes.”.

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(5) In subsection (3), after “subsection (2)” there shall be inserted “ or (2A) ”.

F634

#### Textual Amendments

**F63** Sch. 10 para. 4 repealed (26.7.2002 for E. and 1.1.2003 for W.) by 2002 c. 15, s. 180, Sch. 14; S.I. 2002/1912, art. 2(b)(ii) (subject to the transitional provisions and savings in Sch. 2), Sch. 1 Pt. 2; S.I. 2002/3012, art. 2(b)(ii), Sch. 1 Pt. 2 (subject to the transitional provisions and savings in Sch. 2)

5 (1) Section 11 (right of qualifying tenant to obtain information about superior interests etc.) shall be amended as follows.

(2) In subsection (1)—

- (a) for “his immediate landlord”, in both places, there shall be substituted “ any immediate landlord of his ”, and
- (b) for “the person who owns the freehold of” there shall be substituted “ every person who owns a freehold interest in ”.

(3) In subsection (2)(b), for “the tenant’s immediate landlord” there shall be substituted “ any immediate landlord of the tenant ”.

(4) In subsection (3), for “the person who owns the freehold of” there shall be substituted “ any person who owns a freehold interest in ”.

(5) In subsection (4), for paragraph (a) there shall be substituted—

- “(a) to any person who owns a freehold interest in the relevant premises,
- (aa) to any person who owns a freehold interest in any such property as is mentioned in subsection (3)(c).”.

(6) In subsection (8)(b)(i), after “premises” there shall be inserted “ or in any such property as is mentioned in subsection (3)(c) ”.

(7) In subsection (9), in the definition of “the relevant premises”—

- (a) in paragraph (a), after “owns”, where it second occurs, there shall be inserted “ , or the persons who own the freehold interests in the flat own, ”, and
- (b) in paragraph (b), after “owns” there shall be inserted “ , or those persons own, ”.

6 (1) Section 13 (notice by qualifying tenants of claim to exercise right to collective enfranchisement) shall be amended as follows.

(2) In subsection (2), in paragraph (a)—

- (a) after “must” there shall be inserted—  
 “(i) in a case to which section 9(2) applies,”,

and

- (b) after “premises;” there shall be inserted “and  
 (ii) in a case to which section 9(2A) applies, be given to the person specified in the notice as the recipient;”.

(3) After that subsection there shall be inserted—

- “(2A) In a case to which section 9(2A) applies, the initial notice must specify—  
 (a) a person who owns a freehold interest in the premises, or

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- (b) if every person falling within paragraph (a) is a person who cannot be found or whose identity cannot be ascertained, a relevant landlord,  
as the recipient of the notice.”.
- (4) In subsection (3)(d)(i), there shall be inserted at the end “ or, if the freehold of the whole of the specified premises is not owned by the same person, each of the freehold interests in those premises ”.
- 7 (1) Section 19 (effect of notice under section 13 on subsequent transactions by freeholder etc) shall be amended as follows.
- (2) In subsection (1)(a)—
- (a) for “the person who owns the freehold of the specified premises” there shall be substituted “ any person who owns the freehold of the whole or any part of the specified premises or the freehold of any property specified in the notice under section 13(3)(a)(ii) ”, and
- (b) in sub-paragraph (i), for the words from “any property” to the end there shall be substituted “ that property ”.
- (3) In subsection (2), for paragraph (a) there shall be substituted—
- “(a) any person who owns the freehold of the whole or any part of the specified premises or the freehold of any property specified in the notice under section 13(3)(a)(ii) disposes of his interest in those premises or that property.”.
- (4) In subsection (4), for paragraph (a) there shall be substituted—
- “(a) by any person who owns the freehold of the whole or any part of the specified premises or the freehold of any property specified in the notice under section 13(3)(a)(ii).”.
- 8 (1) Section 21 (reversioner’s counter-notice) shall be amended as follows.
- (2) In subsection (3)(d), for “the person who owns the freehold of the specified premises, or any other” there shall be substituted “ any ”.
- (3) In subsection (4), for “the person who owns the freehold of the specified premises or of any other” there shall be substituted “ any ”.
- 9 (1) Section 26 (application to court where relevant landlords cannot be found) shall be amended as follows.
- (2) In subsection (1)(b), after “section 9(2)” there shall be inserted “ or (2A) ”.
- (3) In subsection (3), after “If” there shall be inserted “ , in a case to which section 9(2) applies, ”.
- (4) After that subsection there shall be inserted—
- “(3A) Where in a case to which section 9(2A) applies—
- (a) not less than two-thirds of the qualifying tenants of flats contained in any premises to which this Chapter applies desire to make a claim to exercise the right to collective enfranchisement in relation to those premises, and
- (b) paragraph (b) of subsection (1) does not apply, but

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- (c) a copy of a notice of that claim cannot be given in accordance with Part II of Schedule 3 to any person to whom it would otherwise be required to be so given because he cannot be found or his identity cannot be ascertained,  
 the court may, on the application of the qualifying tenants in question, make an order dispensing with the need to give a copy of such a notice to that person.”.
- (5) In subsection (4), for “or (2)” there shall be substituted “, (2) or (3A)”.
- (6) In subsection (7), after “(2)” there shall be inserted “ or (3A)”.
- 10 In section 30 (effect on acquisition of institution of compulsory acquisition procedures), at the end of subsection (2)(a) there shall be inserted “ or, where the freehold of the whole of the premises is not owned by the same person, any person who owns the freehold of part of them ”.
- 11 (1) Section 34 (conveyance to nominee purchaser) shall be amended as follows.
- (2) In subsection (1)—
- (a) after “specified premises” there shall be inserted “, of a part of those premises”, and
- (b) after “those premises” there shall be inserted “, that part of those premises”.
- (3) In subsection (2), after “premises” there shall be inserted “, the part of the specified premises”.
- 12 (1) Section 36 (nominee purchaser required to grant leases back to former freeholder) shall be amended as follows.
- (2) In subsection (1)—
- (a) for “the freehold of” there shall be substituted “ a freehold interest in”, and
- (b) for “freehold”, where it second occurs, there shall be substituted “ interest”.
- (3) In subsection (2), for “of the specified premises” there shall be substituted “ interest concerned”.
- 13 In section 38 (interpretation of Chapter I), in subsection (3), after “section 9(2)(b)” there shall be inserted “ or (2A)(b)”.
- 14 In Schedule 1 (conduct of proceedings by reversioner on behalf of other landlords), in Part I (identification of reversioner in case of premises with relevant landlords), in paragraph 1, after “2 to 4,” there shall be inserted “ in a case to which section 9(2) applies,”.
- 15 In that Schedule, after Part I there shall be inserted—

## “PART IA

### THE REVERSIONER: PREMISES WITH MULTIPLE FREEHOLDERS

#### *Initial reversioner*

- 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.

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*Change of reversioner*

- 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.
- 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.
- 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.
- 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.”.
- 16 In Schedule 2 (special categories of landlords), in paragraph 1(1), in the definition of “Chapter I landlord”, for “the reversioner or any other” there shall be substituted “a”.
- 17 (1) Part II of Schedule 3 (which makes provision for the giving of copies of the notice under section 13 to relevant landlords) shall be amended as follows.
- (2) In paragraph 11, after “section 9(2)” there shall be inserted “ or (2A) ”.
  - (3) In paragraph 12, in sub-paragraph (1), there shall be inserted at the beginning “ In a case to which section 9(2) applies, ”.
  - (4) After that paragraph there shall be inserted—
- “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.”.

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- (5) In paragraph 13(3)(a), after “12(2)” there shall be inserted “ or, as the case may be, 12A(2) ”.
- (6) In paragraph 14(2)(b)—
- (a) after “12” there shall be inserted “ , 12A ”, and
  - (b) for “either” there shall be substituted “ any ”.
- 18 (1) Schedule 6 (purchase price payable by nominee purchaser) shall be amended as follows.
- (2) In paragraph 1(1) (interpretation)—
- (a) the definition of “the freeholder” shall be omitted, and
  - (b) for the definition of “the valuation date” there shall be substituted—
- ““the valuation date” means—
- (a) the date when it is determined, either by agreement or by a leasehold valuation tribunal under this Chapter, what freehold interest in the specified premises is to be acquired by the nominee purchaser, or
  - (b) if there are different determinations relating to different freehold interests in the specified premises, the date when determinations have been made in relation to all the freehold interests in the premises.”.
- (3) In paragraph 2 (price payable for the freehold of the specified premises), in sub-paragraph (1)—
- (a) after “this paragraph,” there shall be inserted “ where the freehold of the whole of the specified premises is owned by the same person ”, and
  - (b) for “the specified” there shall be substituted “ those ”.
- (4) In paragraph 3(1A), after paragraph (b) there shall be inserted—
- “(ba) an owner of an interest which the nominee purchaser is to acquire in pursuance of section 1(2)(a), or”.
- (5) After paragraph 5 there shall be inserted—

*“ Price payable for freehold of part of specified premises*

- 5A (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

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- (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.
- 5B (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)”.
- 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)”.
- (6) For paragraph 8 there shall be substituted—
  - “8 (1) Where the owner of the intermediate leasehold interest 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 owner of the intermediate leasehold interest 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.

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- (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 interest in the premises of the owner of the intermediate leasehold interest 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.”.
- (7) In paragraph 9 (owners of intermediate interests entitled to part of marriage value), in sub-paragraph (1), after “where” there shall be inserted “ paragraph 2 applies and ”.
- (8) After that paragraph there shall be inserted—
- “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
- (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.”.
- (9) For paragraph 13 there shall be substituted—
- “13 (1) Where the owner of any such freehold or leasehold interest as is mentioned in paragraph 10(1) or (2) (“relevant interest”) 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—



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- (a) any diminution in value of any interest in other property belonging to the owner of a relevant interest, being diminution resulting from the acquisition of the property in which the relevant interest subsists; 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 property in which the relevant interest subsists to the extent that it is referable to his ownership of any interest in other property.
- (4) In sub-paragraph (3) “development value”, in relation to the property in which the relevant interest subsists, means any increase in the value of the relevant interest 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 property.”
- (10) In paragraph 14 (valuation of freehold and intermediate leasehold interests), in sub-paragraph (1)—
  - (a) in paragraph (a), for “the”, where it second occurs, there shall be substituted “ a ” and for “in accordance with paragraph 3” there shall be substituted “ for the relevant purposes ”,
  - (b) in paragraph (b), for “in accordance with paragraph 7” there shall be substituted “ for the relevant purposes ”, and
  - (c) for “the relevant” there shall be substituted “ those ”.
- (11) In that paragraph, after sub-paragraph (3) there shall be inserted—

“(3A) Where sub-paragraph (2) applies—

  - (a) for the purposes of paragraph 5A(2)(a), and
  - (b) in relation to an intermediate leasehold interest in relation to which there is more than one immediately superior interest,

any reduction in value made under that sub-paragraph shall be apportioned between the immediately superior interests.”.
- (12) In that paragraph, in sub-paragraph (5)(a)—
  - (a) for “the”, where it first occurs, there shall be substituted “ a ”, and
  - (b) after “2(1)(a)” there shall be inserted “ or, as the case may be, 5A(2)(a) ”.
- (13) In paragraph 15 (calculation of marriage value), there shall be inserted at the end—

“(4) References in this paragraph to paragraph 4(2), (3) or (4) extend to that provision as it applies in accordance with paragraph 5A(2)(b).”.
- (14) In paragraph 16 (apportionment of marriage value), in sub-paragraph (2), for “the”, where it first occurs, there shall be substituted “ a ”.
- (15) In paragraph 17 (adjustment of compensation), in sub-paragraph (4)(a), after “2(1)(c)” there shall be inserted “ , 5A(2)(c) ”.
- (16) In that paragraph, there shall be inserted at the end—

“(6) Where any reduction in value under sub-paragraph (2) of paragraph 14 is apportioned in accordance with sub-paragraph (3A) of that paragraph,

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- any amount of compensation payable by virtue of this paragraph shall be similarly apportioned.”.
- 19 In Schedule 7 (conveyance to nominee purchaser on enfranchisement), in paragraph 1—
- (a) for sub-paragraphs (a) and (b) there shall be substituted—
- “(a) “the relevant premises” means, in relation to the conveyance of any interest, the premises in which the interest subsists;
- (b) “the freeholder” means, in relation to the conveyance of a freehold interest, the person whose interest is to be conveyed;”
- and
- (b) for sub-paragraph (d) there shall be substituted—
- “(d) “the appropriate time” means, in relation to the conveyance of a freehold interest, the time when the interest is to be conveyed to the nominee purchaser.”.
- 20 (1) Schedule 9 (grant of leases back to former freeholder) shall be amended as follows.
- (2) In paragraph 1—
- (a) for the definition of “the appropriate time” there shall be substituted—
- ““the appropriate time”, in relation to a flat or other unit contained in the specified premises, means the time when the freehold of the flat or other unit is acquired by the nominee purchaser;”, and
- (b) for the definition of “the freeholder” there shall be substituted—
- ““the freeholder”, in relation to a flat or other unit contained in the specified premises, means the person who owns the freehold of the flat or other unit immediately before the appropriate time;”.
- (3) In paragraph 2, in sub-paragraph (1), for “contained in the specified premises” there shall be substituted “ falling within sub-paragraph (1A) ”, and after that sub-paragraph there shall be inserted—
- “(1A) A flat falls within this sub-paragraph if—
- (a) the freehold of the whole of it is owned by the same person, and
- (b) it is contained in the specified premises.”.
- (4) In paragraph 3, in sub-paragraph (1), for “contained in the specified premises” there shall be substituted “ falling within sub-paragraph (1A) ”, and after that sub-paragraph there shall be inserted—
- “(1A) A flat falls within this sub-paragraph if—
- (a) the freehold of the whole of it is owned by the same person, and
- (b) it is contained in the specified premises.”.
- (5) In paragraph 5, in sub-paragraph (1), for “contained in the specified premises” there shall be substituted “ falling within sub-paragraph (1A) ”, and after that sub-paragraph there shall be inserted—
- “(1A) A unit falls within this sub-paragraph if—
- (a) the freehold of the whole of it is owned by the same person, and

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- (b) it is contained in the specified premises.”.
- (6) In paragraph 6, for sub-paragraphs (1) and (2) there shall be substituted—
- “(1) Sub-paragraph (2) applies where, immediately before the freehold of a flat or other unit contained in the specified premises is acquired by the nominee purchaser—
- (a) those premises are premises with a resident landlord by virtue of the occupation of the flat or other unit by the freeholder of it, and
  - (b) the freeholder of the flat or other unit is a qualifying tenant of it.
- (2) If the freeholder of the flat or other unit (“the relevant unit”) by notice requires the nominee purchaser to do so, the nominee purchaser shall grant to the freeholder a lease of the relevant unit in accordance with section 36 and paragraph 7 below; and, on the grant of such a lease to the freeholder, he shall be deemed to have surrendered any lease of the relevant unit held by him immediately before the appropriate time.”.
- (7) In that paragraph, in sub-paragraph (3), for “(1)(c)” there shall be substituted “ (1) (b) ”.

## SCHEDULE 11

Section 116.

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>M58</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>M59</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

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- 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 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>M60</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.

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- (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.

### **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)”.

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(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**

**M58** 1967 c. 88.

**M59** 1989 c. 42.

**M60** 1989 c. 42.

*Claims under Chapter I of Part I of the Leasehold Reform, Housing and Urban Development Act 1993*

2 (1) After section 37 of the <sup>M61</sup>Leasehold Reform, Housing and Urban Development Act 1993 there shall be inserted—

*“ Landlord’s right to compensation in relation to ineffective claims*

**37A Compensation for postponement of termination in connection with ineffective claims.**

- (1) This section applies where a claim to exercise the right to collective enfranchisement in respect of any premises is made on or after 15th January 1999 by tenants of flats contained in the premises and the claim is not effective.
- (2) A person who is a participating tenant immediately before the claim ceases to have effect shall be liable to pay compensation if—
  - (a) the claim was not made at least two years before the term date of the lease by virtue of which he is a qualifying tenant (“the existing lease”), and
  - (b) any of the conditions mentioned in subsection (3) is met.
- (3) The conditions referred to above are—
  - (a) that the making of the claim caused a notice served under paragraph 4(1) of Schedule 10 to the Local Government and Housing Act 1989 in respect of the existing lease 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) that 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 in respect of the existing lease (but did not cause a notice served under that provision in respect of that lease 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 existing lease, and
  - (c) that the existing lease has been continued under paragraph 6(1) of Schedule 3 by virtue of the claim.

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- (4) Compensation under subsection (2) 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.
- (5) The amount which a tenant is liable to pay under subsection (2) shall be equal to the difference between—
- (a) the rent for the appropriate period under the existing lease, and
  - (b) the rent which might reasonably be expected to be payable for that period were the property to which the existing lease relates let 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 lease.
- (6) For the purposes of subsections (4) and (5), the appropriate period is—
- (a) in a case falling within paragraph (a) of subsection (3), 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>M62</sup>Local Government and Housing Act 1989 in respect of the existing lease served immediately after the date on which the claim ceases to have effect, or, if the existing lease is terminated before then, with the date of its termination;
  - (b) in a case falling within paragraph (b) of subsection (3), 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 lease, and
    - (ii) ending six months after the date on which the claim ceases to have effect, or, if the existing lease is terminated before then, with the date of its termination; and
  - (c) in a case falling within paragraph (c) of subsection (3), the period for which the existing lease is continued under paragraph 6(1) of Schedule 3.
- (7) In the case of a person who becomes a participating tenant by virtue of an election under section 14(3), the references in subsections (3)(a) and (b) and (6)(b)(i) to the making of the claim shall be construed as references to the making of the election.
- (8) For the purposes of this section—
- (a) references to a claim to exercise the right to collective enfranchisement shall be taken as references to a notice given, or purporting to be given (whether by persons who are qualifying tenants or not), under section 13,
  - (b) references to the date on which a claim ceases to have effect shall, in the case of a claim made by a notice which is not a valid notice under section 13, be taken as references to the date on which the

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notice is set aside by the court or is withdrawn or would, if valid, cease to have effect or be deemed to have been withdrawn, 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, and

- (c) a claim to exercise the right to collective enfranchisement is not effective if it ceases to have effect for any reason other than—
  - (i) the application of section 23(4), 30(4) or 31(4),
  - (ii) the entry into a binding contract for the acquisition of the freehold and other interests falling to be acquired in pursuance of the claim, or
  - (iii) 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.

**37B Modification of section 37A where change in immediate reversion.**

- (1) Where a tenant’s liability to pay compensation under section 37A relates to a period during which there has been a change in the interest immediately expectant on the determination of his lease, that section shall have effect with the following modifications.
- (2) For subsections (4) and (5) there shall be substituted—
- “(4) Compensation under subsection (2) 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 lease.
- (5) Compensation under subsection (2) above shall—
  - (a) in the case of the interest which is immediately expectant on the determination of the existing lease 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 lease, be the right of the person in whom the interest was vested immediately before it ceased to be so expectant.
- (5A) 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 lease for the part of the appropriate period during which the interest was immediately expectant on the determination of that lease, 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 lease 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 lease.”
- (3) In subsection (6), for “(4) and (5)” there shall be substituted “(4) to (5A)”.



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(2) In section 91(2) 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 37A;”.

#### Marginal Citations

**M61** 1993 c. 28.

**M62** 1989 c. 42.

#### *Claims under Chapter II of Part I of the Leasehold Reform, Housing and Urban Development Act 1993*

3 (1) After section 61 of the <sup>M63</sup>Leasehold Reform, Housing and Urban Development Act 1993 there shall be inserted—

*“ Landlord’s right to compensation in relation to ineffective claims*

#### **61A 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 a flat makes a claim to acquire a new lease of the flat, and
  - (b) the claim is not made at least two years before the term date of the lease in respect of which the claim is made (“the existing lease”).
- (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>M64</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 existing lease, or
  - (c) the existing lease is continued under paragraph 5(1) of Schedule 12 by virtue of the claim.
- (3) Compensation under subsection (2) 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) shall be equal to the difference between—
  - (a) the rent for the appropriate period under the existing lease, and
  - (b) the rent which might reasonably be expected to be payable for that period were the property to which the existing lease relates let for

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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 lease.

- (5) For the purposes of subsections (3) and (4), the appropriate period is—
  - (a) in a case falling within paragraph (a) of subsection (2), 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 Local Government and Housing Act 1989 served immediately after the date on which the claim ceases to have effect, or, if the existing lease is terminated before then, with the date on which it is terminated;
  - (b) in a case falling within paragraph (b) of subsection (2), 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 lease, and
    - (ii) ending six months after the date on which the claim ceases to have effect, or, if the existing lease is terminated before then, with the date of its termination; and
  - (c) in a case falling within paragraph (c) of subsection (2), the period for which the existing lease is continued under paragraph 5(1) of Schedule 12.
- (6) For the purposes of subsection (2), a claim to a new lease is not effective if it ceases to have effect for any reason other than—
  - (a) the application of section 47(1) or 55(2), or
  - (b) the acquisition of the new lease in pursuance of the claim.
- (7) For the purposes of this section—
  - (a) references to a claim to acquire a new lease shall be taken as references to a notice given, or purporting to be given (whether by a qualifying tenant or not), under section 42, and
  - (b) references to the date on which a claim ceases to have effect shall, in the case of a claim made by a notice which is not a valid notice under section 42, be taken as references to the date on which the notice is set aside by the court or is withdrawn or would, if valid, cease to have effect or be deemed to have been withdrawn, 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.

#### **61B Modification of section 61A where change in immediate reversion.**

- (1) Where a tenant's liability to pay compensation under section 61A relates to a period during which there has been a change in the interest immediately

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expectant on the determination of his lease, that section shall have effect with the following modifications.

- (2) For subsections (3) and (4) there shall be substituted—
- (“ Compensation under subsection (2) 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 lease.
- (4) Compensation under subsection (2) above shall—
- (a) in the case of the interest which is immediately expectant on the determination of the existing lease 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 lease, 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 lease for the part of the appropriate period during which the interest was immediately expectant on the determination of that lease, 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 lease 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 lease.”
- (3) In subsection (5), for “(3) and (4)” there shall be substituted “(3) to (4A)”.
- (2) In section 91(2) of that Act (matters to be determined by leasehold valuation tribunal), after paragraph (c) there shall be inserted—
- “(cb) the amount of any compensation payable under section 61A;”.

#### Marginal Citations

**M63** 1993 c. 28.

**M64** 1989 c. 42.

*Status: Point in time view as at 01/01/2003.*

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## SCHEDULE 12

Section 121.

### ADMINISTRATION OF HOUSING BENEFIT, &C

#### *Administration of housing benefit*

- 1 (1) Section 134 of the <sup>M65</sup>Social Security Administration Act 1992 (arrangements for housing benefit) is amended as follows.
- (2) For subsection (1) (administering authority and form of benefit) substitute—
- “(1) Housing benefit provided by virtue of a scheme under section 123 of the <sup>M66</sup>Social Security Contributions and Benefits Act 1992 (in this Part referred to as “the housing benefit scheme”) shall be funded and administered by the appropriate housing authority or local authority.
- (1A) Housing benefit in respect of payments which the occupier of a dwelling is liable to make to a housing authority shall take the form of a rent rebate or, in prescribed cases, a rent allowance funded and administered by that authority.
- The cases that may be so prescribed do not include any where the payment is in respect of property within the authority’s Housing Revenue Account.
- (1B) In any other case housing benefit shall take the form of a rent allowance funded and administered by the local authority for the area in which the dwelling is situated or by such other local authority as is specified by an order made by the Secretary of State.”
- (3) In subsection (2)(b) omit the words “or rates”.
- (4) Omit subsections (3), (4), (6) and (7).
- (5) For subsection (5) (agreements with other authorities for carrying out of functions) substitute—
- “(5) Authorities may—
- (a) agree that one shall discharge functions relating to housing benefit on another’s behalf; or
- (b) discharge any such functions jointly or arrange for their discharge by a joint committee.
- (5A) Nothing in this section shall be read as excluding the general provisions of the <sup>M67</sup>Local Government Act 1972 or the <sup>M68</sup>Local Government (Scotland) Act 1973 from applying in relation to the housing benefit functions of a local authority.”
- (6) In subsection (9) for the words from “the rebates or allowances” to the end substitute “the housing benefit which will be paid by the authority in any year will not exceed the permitted total or any subsidiary limit specified by order of the Secretary of State.”
- (7) In subsection (11) for the words from “the rebates or allowances” to the end substitute “the housing benefit paid by them during the year exceeds the permitted total or any subsidiary limit specified by order of the Secretary of State.”
- (8) For subsection (12) substitute—

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“(12) The Secretary of State—

- (a) shall by order specify the permitted total of housing benefit payable by any authority in any year; and
- (b) may by order specify one or more subsidiary limits on the amount of housing benefit payable by any authority in any year in respect of any matter or matters specified in the order.

The power to specify the permitted total or a subsidiary limit may be exercised by fixing an amount or by providing rules for its calculation.”.

**Marginal Citations**

- M65** 1992 c. 5.
- M66** 1992 c. 4.
- M67** 1972 c. 70.
- M68** 1973 c. 65.

*Administration of council tax benefit*

2 In section 138 of the <sup>M69</sup>Social Security Administration Act 1992 (council tax benefit: nature of benefit), at the end of subsection (1) insert—

“References in any enactment or instrument (whenever passed or made) to payment, in relation to council tax benefit, include any of those ways of giving the benefit.

.”

**Marginal Citations**

- M69** 1992 c. 5.

3 (1) Section 139 of the Social Security Administration Act 1992 (arrangements for council tax benefit) is amended as follows.

(2) For subsections (4) and (5) (agreements with other authorities for carrying out of functions) substitute—

“(4) Nothing in this section shall be read as excluding the general provisions of the Local Government Act 1972 or the Local Government (Scotland) Act 1973 from applying in relation to the council tax benefit functions of a local authority.”.

(3) In subsection (7) for the words from “the benefits which will be allowed” to the end substitute “ the amount of benefit which will be paid by them in any year will not exceed the permitted total or any subsidiary limit specified by order of the Secretary of State. ”.

(4) In subsection (9) for the words from “the benefits allowed by it” to the end substitute “ the amount of benefit paid by them in any year exceeds the permitted total or any subsidiary limit specified by order of the Secretary of State. ”.

(5) For subsection (10) substitute—

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“(10) The Secretary of State—

- (a) shall by order specify the permitted total of council tax benefit payable by any authority in any year; and
- (b) may by order specify one or more subsidiary limits on the amount of council tax benefit payable by any authority in any year in respect of any matter or matters specified in the order.

The power to specify the permitted total or a subsidiary limit may be exercised by fixing an amount or by providing rules for its calculation.”.

*Subsidy*

4 After section 140 of the <sup>M70</sup>Social Security Administration Act 1992 insert—

*“ Subsidy*

**140A Subsidy.**

- (1) For each year the Secretary of State shall pay a subsidy to each authority administering housing benefit or council tax benefit.
- (2) He shall pay—
  - (a) rent rebate subsidy to each housing authority;
  - (b) rent allowance subsidy to each local authority; and
  - (c) council tax benefit subsidy to each billing authority or levying authority.
- (3) In the following provisions of this Part “subsidy”, without more, refers to subsidy of any of those descriptions.

**140B Calculation of amount of subsidy.**

- (1) The amount of subsidy to be paid to an authority shall be calculated in the manner specified by order made by the Secretary of State.
- (2) Subject as follows, the amount of subsidy shall be calculated by reference to the amount of relevant benefit paid by the authority during the year, with any additions specified in the order but subject to any deductions so specified.  
  
 In the case of a housing authority in England and Wales, any Housing Revenue Account rebates paid by them shall be excluded from the total.
- (3) The order may provide that the amount of subsidy in respect of any matter shall be a fixed sum or shall be nil.
- (4) The Secretary of State may deduct from the amount which would otherwise be payable by way of subsidy such amount as he considers it unreasonable to pay by way of subsidy.
- (5) The Secretary of State may pay to an authority as part of the subsidy an additional amount in respect of the costs of administering the relevant benefit.

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Any such additional amount shall be a fixed sum specified by, or shall be calculated in the manner specified by, an order made by the Secretary of State.

- (6) In this section “relevant benefit” means housing benefit or council tax benefit, as the case may be.
- (7) Nothing in this section shall be taken to imply that any such addition or deduction as is mentioned in subsection (2) or (4) above may not be determined by reference to—
  - (a) the amount of relevant benefit paid by the authority during a previous year; or
  - (b) the amount of subsidy paid to the authority in respect of a previous year, under this section.
- (8) The amount of subsidy payable to an authority shall be calculated to the nearest pound, disregarding an odd amount of 50 pence or less and treating an odd amount exceeding 50 pence as a whole pound.

#### **140C Payment of subsidy.**

- (1) Subsidy shall be paid by the Secretary of State in such instalments, at such times, in such manner and subject to such conditions as to claims, records, certificates, audit or otherwise as may be provided by order of the Secretary of State.
- (2) The order may provide that if an authority has not, within such period as may be specified in the order, complied with the conditions so specified as to claims, records, certificate, audit or otherwise, the Secretary of State may estimate the amount of subsidy payable to the authority and employ for that purpose such criteria as he considers relevant.
- (3) Where subsidy has been paid to an authority and it appears to the Secretary of State—
  - (a) that subsidy has been overpaid; or
  - (b) that there has been a breach of any condition specified in an order under this section,

he may recover from the authority the whole or such part of the payment as he may determine.

Without prejudice to other methods of recovery, a sum recoverable under this subsection may be recovered by withholding or reducing subsidy.

- (4) An order made by the Secretary of State under this section may be made before, during or after the end of the year or years to which it relates.

#### **140D Rent rebate subsidy: accounting provisions.**

- (1) Rent rebate subsidy is payable—
  - (a) in the case of a local authority in England and Wales, for the credit of a revenue account of theirs other than their Housing Revenue Account or Housing Repairs Account;

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- (b) in the case of a local authority in Scotland, for the credit of their rent rebate account;
  - (c) in the case of a development corporation in England and Wales or the Development Board for Rural Wales, for the credit of their housing account; and
  - (d) in the case of a new town corporation in Scotland or Scottish Homes, for the credit of the account to which rent rebates granted by them, or it, are debited.
- (2) Every local housing authority in England and Wales shall for each year carry to the credit of their Housing Revenue Account from some other revenue account of theirs which is not a Housing Repairs Account an amount equal to the aggregate of—
- (a) so much of each Housing Revenue Account rebate paid by them during the year as was paid—
    - (i) in the exercise of a discretion conferred by the housing benefit scheme; or
    - (ii) in pursuance of any modification of that scheme under section 134(8)(b) above; and
  - (b) unless the authority otherwise determine, so much of each such rebate as was paid in pursuance of such modifications of that scheme as are mentioned in section 134(8)(a) above.

*Supplementary provisions*

**140E Financing of joint arrangements.**

- (1) Where two or more authorities make arrangements for the discharge of any of their functions relating to housing benefit or council tax benefit—
- (a) by one authority on behalf of itself and one or more other authorities; or
  - (b) by a joint committee,
- the Secretary of State may make such payments as he thinks fit to the authority or committee in respect of their expenses in carrying out those functions.
- (2) The provisions of sections 140B and 140C (subsidy: calculation and supplementary provisions) apply in relation to a payment under this section as in relation to a payment of subsidy.
- (3) The Secretary of State may (without prejudice to the generality of his powers in relation to the amount of subsidy) take into account the fact that an amount has been paid under this section in respect of expenses which would otherwise have been met in whole or in part by the participating authorities.

**140F No requirement for annual orders.**

- (1) Any power under this Part to make provision by order for or in relation to a year does not require the making of a new order each year.
- (2) Any order made under the power may be revoked or varied at any time, whether before, during or after the year to which it relates.



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### 140G Interpretation: Part VIII.

In this Part, unless the context otherwise requires—

“Housing Repairs Account” means an account kept under section 77 of the <sup>M71</sup>Local Government and Housing Act 1989;

“Housing Revenue Account” means the account kept under section 74 of the Local Government and Housing Act 1989, and—

(a) references to property within that account have the same meaning as in Part VI of that Act, and

(b) “Housing Revenue Account rebate” means a rebate debited to that account in accordance with that Part;

“rent rebate subsidy” and “rent allowance subsidy” shall be construed in accordance with section 134 above;

“year” means a financial year within the meaning of the <sup>M72</sup>Local Government Finance Act 1992.”.

#### Modifications etc. (not altering text)

**C10** Sch. 12 para. 4 extended (5.3.1997) by S.I. 1997/618, art. 2, Sch. para. 5

#### Marginal Citations

**M70** 1992 c. 5.

**M71** 1989 c. 42.

**M72** 1992 c. 14.

#### *Transitional provision*

- 5 (1) The Secretary of State may by order make such transitional provision, and such consequential provision and savings, as appear to him appropriate in connection with the coming into force of the provisions of this Schedule.
- (2) Without prejudice to the generality of that power, the order may provide for the recovery by the withholding or reduction of subsidy payable under the provisions inserted by paragraph 4 above of any amount which would have been recoverable under the provisions of Part VIII of the <sup>M73</sup>Social Security Administration Act 1992 repealed by this Act.
- (3) Section 189(3) to (7) of the Social Security Administration Act 1992 (general provisions as to regulations and orders) apply in relation to the power conferred by sub-paragraph (1) as they apply in relation to a power conferred by that Act to make an order.
- (4) A statutory instrument containing an order under this paragraph shall be subject to annulment in pursuance of a resolution of either House of Parliament.

#### Marginal Citations

**M73** 1992 c. 5.

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## SCHEDULE 13

Section 123.

### HOUSING BENEFIT AND RELATED MATTERS: CONSEQUENTIAL AMENDMENTS

#### *Rent Act 1977 (c.42)*

- 1 In section 63(7) of the Rent Act 1977 (expenditure on rent officers to be met by Secretary of State), in paragraph (a), for “or an order under section 121 of the Housing Act 1988” substitute “ or an order under section 122 of the Housing Act 1996 ”.

#### *Housing Act 1985 (c.68)*

- 2 In section 425(2)(b) of the Housing Act 1985 (housing subsidy: local contribution differential), for “section 135” substitute “ section 140A ”.

#### *Social Security Administration Act 1992 (c.5)*

- 3 (1) The Social Security Administration Act 1992 is amended as follows.
- (2) In section 5(3) (regulations about benefit: information required by a rent officer), for “section 121 of the Housing Act 1988” substitute “ section 122 of the Housing Act 1996 ”.
- (3) In section 116(4) (legal proceedings for offences: definition of “appropriate authority”)—
- (a) omit paragraph (a);
  - (b) in paragraph (b), for “that subsection” substitute “ section 134 below ”; and
  - (c) in paragraph (c), for “that subsection” substitute “ that section ”.
- (4) In section 176 (consultation with representative organisations), in subsection (1)(b) for “section 134(12), 135, 139 or 140 above” substitute “ any provision of Part VIII above ”.
- (5) In section 189(8) (requirement for consent of the Treasury), for “135, 140” substitute “ 140B, 140C ”.
- (6) In section 191 (interpretation: general)—
- (a) at the appropriate place insert—
 

““council tax benefit scheme” shall be construed in accordance with section 139(1) above;”;
  - (b) in the definition of “rate rebate”, “rent rebate” and “rent allowance”, omit the reference to rate rebate;
  - (c) omit the definitions of “rates” and “rating authority”.

#### *Leasehold Reform, Housing and Urban Development Act 1993 (c.28)*

- 4 In section 135(8) of the Leasehold Reform, Housing and Urban Development Act 1993 (programmes for disposals of dwelling-houses by local authorities), for “section 135(1) of the Social Security Administration Act 1992 (housing benefit finance)” substitute “ section 140A of the Social Security Administration Act 1992 (subsidy) ”.



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PROSPECTIVE

<sup>F64</sup>SCHEDULE 15

Section 155(6).

ARREST FOR ANTI-SOCIAL BEHAVIOUR: POWERS  
OF HIGH COURT AND COUNTY COURT TO REMAND

**Textual Amendments**

**F64** Sch. 15 repealed (23.3.2015) by [Anti-social Behaviour, Crime and Policing Act 2014 \(c. 12\)](#), s. 185(1), [Sch. 11 para. 22](#) (with ss. 21, 33, 42, 58, 75, 93); S.I. 2015/373, art. 4(f)(v)

<sup>F64</sup> *Introductory*

<sup>F64</sup>1 .....

<sup>F64</sup> *Remand in custody or on bail*

<sup>F64</sup>2 .....

<sup>F64</sup>3 .....

<sup>F64</sup>4 .....

<sup>F64</sup> *Further remand*

<sup>F64</sup>5 .....

<sup>F64</sup> *Postponement of taking of recognizance*

<sup>F64</sup>6 .....

SCHEDULE 16

Section 173.

ALLOCATION OF HOUSING ACCOMMODATION: CONSEQUENTIAL AMENDMENTS

*Housing Act 1985 (c.68)*

1 In section 106 of the Housing Act 1985 (information about allocation of secure tenancies) at the end insert—

“(6) The provisions of this section do not apply to a landlord authority which is a local housing authority so far as they impose requirements corresponding to those to which such an authority is subject under sections 166 and 168 of the Housing Act 1996 (provision of information about housing registers and allocation schemes).”

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- 2 (1) Schedule 1 to the Housing Act 1985 (tenancies which are not secure tenancies) is amended as follows.
- (2) In paragraph 2 (premises occupied in connection with employment) at the beginning of sub-paragraph (1), (2) and (3) insert in each case “ Subject to sub-paragraph (4B) ”.
- (3) In sub-paragraph (4) of that paragraph—
- (a) at the beginning insert “ Subject to sub-paragraph (4A) and (4B) ”, and
- (b) omit the words from “until” to the end.
- (4) After sub-paragraph (4) of that paragraph insert—
- “(4A) Except where the landlord is a local housing authority, a tenancy under sub-paragraph (4) shall become a secure tenancy when the periods during which the conditions mentioned in sub-paragraph (1), (2) or (3) are not satisfied with respect to the tenancy amount in aggregate to more than three years.
- (4B) Where the landlord is a local housing authority, a tenancy under sub-paragraph (1), (2), (3) or (4) shall become a secure tenancy if the authority notify the tenant that the tenancy is to be regarded as a secure tenancy.”.
- (5) In paragraph 5 (temporary accommodation for persons taking up employment) in sub-paragraph (1)—
- (a) for the words from the beginning to first “grant” substitute “ Subject to sub-paragraphs (1A) and (1B), a tenancy is not a secure tenancy ”, and
- (b) omit from “unless” to the end.
- (6) After sub-paragraph (1) of that paragraph insert
- “(1A) Except where the landlord is a local housing authority, a tenancy under sub-paragraph (1) shall become a secure tenancy on the expiry of one year from the grant or on earlier notification by the landlord to the tenant that the tenancy is to be regarded as a secure tenancy.
- (1B) Where the landlord is a local housing authority, a tenancy under sub-paragraph (1) shall become a secure tenancy if at any time the authority notify the tenant that the tenancy is to be regarded as a secure tenancy.”.
- (7) In paragraph 10 (student lettings) in sub-paragraph (1)—
- (a) for the words from the beginning to “sub-paragraph (3)” substitute “ Subject to sub-paragraphs (2A) and (2B), a tenancy of a dwelling-house is not a secure tenancy ”, and
- (b) omit from “unless” to the end.
- (8) After sub-paragraph (2) of that paragraph insert—
- “(2A) Except where the landlord is a local housing authority, a tenancy under sub-paragraph (1) shall become a secure tenancy on the expiry of the period specified in sub-paragraph (3) or on earlier notification by the landlord to the tenant that the tenancy is to be regarded as a secure tenancy.
- (2B) Where the landlord is a local housing authority, a tenancy under sub-paragraph (1) shall become a secure tenancy if at any time the authority notify the tenant that the tenancy is to be regarded as a secure tenancy.”.

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(9) In sub-paragraph (3) of that paragraph for the words “sub-paragraph (1)” substitute “sub-paragraph (2A)”.

**Modifications etc. (not altering text)**

**C11** Sch. 16 para. 2 restricted (25.11.1996) by S.I. 1996/2959, art. 3, Sch. para.2

*Asylum and Immigration Act 1996 (c. 49)*

F653 .....

**Textual Amendments**

**F65** Sch. 16 para. 3 repealed (1.3.2000) by 1999 c. 33, s. 169(3), Sch. 16; S.I. 2000/464, art. 2 Sch.

SCHEDULE 17

Section 216(3).

HOMELESSNESS: CONSEQUENTIAL AMENDMENTS

*Local Authority Social Services Act 1970 (c.42)*

1 In Schedule 1 to the Local Authority Social Services Act 1970 (enactments conferring functions assigned to Social Services Committee) for the entry relating to the Housing Act 1985 substitute—

|                                     |  |
|-------------------------------------|--|
| “Housing Act 1996 Section 213(1)(b) | Co-operation in relation to homeless persons and persons threatened with homelessness.”. |
|-------------------------------------|--|

*Greater London Council (General Powers) Act 1984 (c.xxvii)*

2 In section 39 of the Greater London Council (General Powers) Act 1984 (occupants removed from buildings to have priority housing need) for “Part III of the Housing Act 1985 (housing the homeless)” substitute “Part VII of the Housing Act 1996 (homelessness)”.

*Housing Act 1985 (c.68)*

3 In Schedule 1 to the Housing Act 1985 (tenancies which are not secure tenancies), for paragraph 4 (accommodation for homeless persons) substitute—

*“Accommodation for homeless persons*

4 A tenancy granted in pursuance of any function under Part VII of the Housing Act 1996 (homelessness) is not a secure tenancy unless the local housing authority concerned have notified the tenant that the tenancy is to be regarded as a secure tenancy.”.

*Status: Point in time view as at 01/01/2003.*

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*Housing (Scotland) Act 1987 (c.26)*

- 4 In section 42 of the Housing (Scotland) Act 1987 (application of Part II to cases arising in England and Wales: request for co-operation)—
- (a) in subsection (1) for “section 67(1) of the Housing Act 1985” substitute “section 198(1) of the Housing Act 1996 ”; and
  - (b) in subsections (2) and (3) for “section 72 of the Housing Act 1985” substitute “ section 213 of the Housing Act 1996 ”.

SCHEDULE 18

Section 222.

MISCELLANEOUS PROVISIONS

**PART I**

HOUSING MANAGEMENT

*Repeal of Part IV of the Housing Act 1988*

- 1 Part IV of the <sup>M74</sup>Housing Act 1988 (change of landlord: secure tenants) is hereby repealed.

**Extent Information**

**E7** For the extent of Sch. 18 para. 1, see s. 231(4)(a)

**Marginal Citations**

**M74** 1988 c. 50.

*Payments to encourage local housing authority tenants to move to other accommodation*

- 2 (1) A local housing authority may make payments to or for the benefit of a tenant or licensee of a dwelling-house within its Housing Revenue Account with a view to assisting or encouraging that person to move to qualifying accommodation.
- (2) In sub-paragraph (1) “qualifying accommodation” means a dwelling-house made available to the person concerned as tenant or licensee by any of the following—
- (a) the local housing authority making the grant or any other local housing authority; or
  - (b) a registered social landlord.
- (3) The reference in sub-paragraph (1) to a dwelling-house being within the Housing Revenue Account of a local housing authority is to a dwelling-house to which section 74(1) of the <sup>M75</sup>Local Government and Housing Act 1989 for the time being applies.
- (4) In this paragraph—
- “dwelling-house” has the meaning given by section 112 of the <sup>M76</sup>Housing Act 1985; and

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“tenant” does not include a tenant under a long tenancy as defined in section 115 of that Act.

**Marginal Citations**

**M75** 1989 c. 42.

**M76** 1985 c. 68.

*Consultation with respect to housing management*

- 3 (1) Part II of the Housing Act 1985 (provision of housing accommodation) is amended as follows.
- (2) After section 27B insert—

*“ Consultation with respect to housing management*

**27BA Consultation with respect to management.**

- (1) The Secretary of State may make regulations for imposing requirements on a local housing authority to consult tenants, or to consider representations made to them by tenants, with respect to the exercise of their management functions (including proposals as to the exercise of those functions), in relation to any of the authority’s houses or other land held for a related purpose.
- (2) The regulations may include provision requiring a local housing authority to consult tenants, or consider representations made by tenants, with respect to—
- (a) the terms of a written specification to be prepared by the authority of functions proposed to be exercised by the authority or another person;
  - (b) a proposal of the authority to exercise management functions themselves;
  - (c) any person whom the authority propose to invite to submit a bid to exercise any of their management functions;
  - (d) the standards of service for the time being achieved by the authority or (as the case may be) the person with whom they have entered into a management agreement;
  - (e) a proposal to enforce the standards of service required by a management agreement.
- (3) The requirements imposed on a local housing authority by the regulations may include provision with respect to—
- (a) the tenants to be consulted or whose representations are to be considered;
  - (b) the means by which consultation is to be effected (including the arrangements to be made for tenants to consider the matters on which they have been consulted);
  - (c) the arrangements to be made for tenants to make representations to the authority;



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- (d) the action to be taken by the authority where representations are made.
- (4) The regulations may include provision requiring a local housing authority to consult representatives of tenants, or to consider representations made to them by such representatives, as well as (or instead of) the tenants themselves; and accordingly, references in subsections (1) to (3) above to tenants include references to such representatives.
- (5) The regulations may include provision for particular questions arising under them to be determined by a local housing authority on whom they impose requirements.
- (6) Nothing in subsections (2) to (5) above shall be taken as prejudicing the generality of subsection (1).
- (7) Regulations under this section—
  - (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 to be necessary or expedient, and
  - (c) shall be made by statutory instrument which shall be subject to annulment in pursuance of a resolution of either House of Parliament.
- (8) Except as otherwise provided by the regulations, in the case of secure tenants, the provisions of the regulations shall apply in place of the provisions of section 105 (consultation on matters of housing management).
- (9) Except as otherwise provided by the regulations, in the case of introductory tenants, the provisions of the regulations shall apply in place of the provisions of section 137 of the Housing Act 1996 (consultation on matters of housing management).
- (10) References in this section to the management functions of a local housing authority in relation to houses or land shall be construed in the same way as references to any such functions in section 27.”.
- (3) In section 20(1) (application of housing management provisions) for “section 27B” substitute “ section 27BA ”.
- (4) In section 27 (management agreements), after subsection (5) insert—
  - “(5A) Nothing in section 6 of the <sup>M77</sup>Local Government Act 1988 (restrictions on authority carrying out functional work) shall apply in relation to any management functions which, in pursuance of a management agreement, are carried out by the manager as agent of the local housing authority.”.
- (5) In section 27AB (management agreements with tenant management organisations), in subsection (7)(b)(i), for the words from “section 27A” to the end substitute “ regulations under section 27BA (consultation with respect to management) ”.

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### Marginal Citations

M77 1988 c. 9.

## PART II

### HOUSING FINANCE

#### *Housing Revenue Account: directions as to certain matters*

- 4 (1) In Part VI of the <sup>M78</sup>Local Government and Housing Act 1989 (housing finance), after section 78 (directions as to proper accounting practices) insert—

**“78A Directions as to treatment of service charges, &c.**

- (1) The Secretary of State may give directions as to what items or amounts are to be regarded as referable to property within a local housing authority’s Housing Revenue Account where one or more parts of a building have been disposed of but the common parts remain property within that account.
- (2) Any such direction also has effect for the purposes of any Housing Repairs Account kept by the authority.
- (3) Directions under this section may give the authority a discretion as to whether items or amounts are accounted for in the Housing Revenue Account or any Housing Repairs Account or in another revenue account.
- (4) In this section “common parts” includes the structure and exterior of the building and common facilities provided, whether in the building or elsewhere, for persons who include the occupiers of one or more parts of the building.

**78B Directions as to accounting for work subject to competitive tendering.**

- (1) This section applies where work is carried out by a local housing authority which has successfully bid for the work on a competitive basis.
- (2) The Secretary of State may give directions—
  - (a) to secure that the amount debited to the Housing Revenue Account or any Housing Repairs Account of the authority in respect of the work reflects the amount of the authority’s successful bid for the work rather than expenditure actually incurred;
  - (b) allowing an authority to credit to its Housing Revenue Account any surpluses reasonably attributable to work undertaken on or in connection with property within that account.
- (3) Directions under subsection (2)(a) may make provision for determining the amount to be treated as the amount of the authority’s successful bid.

References in this Part to expenditure shall be construed as references to the amount falling to be debited in accordance with the directions.

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- (4) Directions under subsection (2)(b) may make provision as to the ascertainment of the surpluses referred to and the circumstances in which a surplus is or is not to be taken to be attributable to property within an authority's Housing Revenue Account.”.
- (2) The above amendment has effect for the financial year beginning on 1st April 1997 and subsequent financial years.

**Marginal Citations**

**M78** 1989 c. 42.

*Housing Revenue Account subsidy: final decision on amount*

- 5 (1) In Part VI of the <sup>M79</sup>Local Government and Housing Act 1989 (housing finance), after section 80 (calculation of Housing Revenue Account subsidy) insert—

**“80A Final decision on amount of Housing Revenue Account subsidy.**

- (1) The Secretary of State shall, as soon as he thinks fit after the end of the year, make a final decision as to the amount (if any) of Housing Revenue Account subsidy payable to a local housing authority for that year and notify the authority in writing of his decision.
- (2) Once notified to the authority the decision is conclusive as to the amount (if any) payable by way of subsidy and shall not be questioned in any legal proceedings.
- (3) Where the amount of Housing Revenue Account subsidy paid to an authority is less than the amount finally decided, the authority is entitled to be paid the balance.
- (4) Where Housing Revenue Account subsidy has been paid to an authority in excess of the amount finally decided, the Secretary of State may recover the excess, with interest from such time and at such rates as he thinks fit.
- Without prejudice to other methods of recovery, a sum recoverable under this subsection may be recovered by withholding or reducing subsidy.
- (5) Nothing in this section affects any power of the Secretary of State to vary a determination as to the amount of subsidy before the final decision is made.”.
- (2) The above amendment applies in relation to the amount of subsidy payable—
- (a) to authorities in England for the financial year beginning on 1st April 1996 and subsequent years; and
- (b) to authorities in Wales for such financial years as the Secretary of State may specify by order made by statutory instrument.

**Marginal Citations**

**M79** 1989 c. 42.

*Status: Point in time view as at 01/01/2003.*

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*Abolition of exchequer contributions for agricultural housing*

- 6 (1) No contribution shall be made by the Secretary of State by virtue of Part II of Schedule 15 to the <sup>M80</sup>Housing Act 1985 (exchequer contributions for agricultural housing) in respect of any year after the year ending on 31st March 1996.
- (2) Part II of Schedule 15 to that Act is amended as follows.
- (3) For the heading substitute—  
 “Annual Grants for Agricultural Housing”.
- (4) For paragraph 1 substitute—

*“ Annual grants by local housing authorities*

- 1 (1) Annual grants shall, notwithstanding the abolition of exchequer contributions by paragraph 6(1) of Schedule 18 to the <sup>M81</sup>Housing Act 1996, continue to be payable by local housing authorities in respect of agricultural housing provided in pursuance of arrangements made under section 46 of the Housing (Financial Provisions) Act 1958.
- (2) Subject to the provisions of this Part of this Schedule, such annual grants are payable, in respect of any house as to which the Secretary of State originally undertook to make annual contributions under section 46 of the <sup>M82</sup>Housing (Financial Provisions) Act 1958, for the remainder of the 40 year period for which that undertaking was given.
- (3) The amount paid by way of annual grant to the owner of a house shall not be less than the amount of the last annual contribution paid by the Secretary of State in respect of the house.”.
- (5) For paragraph 2(1) substitute—

*“ Conditions of payment of annual grant*

- 2 (1) It is a condition of the payment of a grant in respect of a house in any year that throughout the year the house—
- (a) is reserved for members of the agricultural population, and
- (b) if let, is let at a rent not exceeding the limit applicable in accordance with the following provisions of this paragraph,
- and that in the opinion of the local housing authority all reasonable steps have been taken to secure the maintenance of the house in a proper state of repair during the year.”.
- (6) In paragraph 3(1), for “contribution” substitute “ grant ”.
- (7) For paragraph 4 substitute—
- “4 A grant shall not be made or shall be reduced, as the local housing authority think fit, if (before the grant is paid) the local housing authority are of the opinion that during the whole or the greater part of the period to which the payment of the grant is referable the house has not been available as a dwelling fit for habitation, unless the authority is satisfied that that could not with reasonable diligence have been achieved.”.
- (8) In paragraph 5 omit the words “the Secretary of State or”.

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(9) After paragraph 5 insert—

*“ Commutation of future annual grant*

- 6 (1) A local authority may make an offer in writing to the person who is for the time being the owner of a house as respects which annual grant is payable under this Part of this Schedule to pay a lump sum in lieu of—
- (a) the annual grant payable for the year in which the offer is accepted; and
  - (b) any further payments of annual grant that would (apart from this paragraph) be payable for the remainder of the period for which the original arrangements under section 46 of the Housing (Financial Provisions) Act 1958 were made.
- (2) An owner may accept an offer made under this paragraph by notice in writing to the local housing authority.
- (3) Subject to sub-paragraph (4) below, where such an offer is accepted the local housing authority shall pay to the owner a lump sum calculated in such manner as the authority may determine.
- (4) A lump sum shall not be paid as respects a house unless the local housing authority are satisfied that the conditions in this Part of this Schedule have been observed throughout the year preceding the date on which the lump sum would otherwise be paid.
- (5) On payment of a lump sum under this paragraph to the owner of a house—
- (a) no further annual grants under this Part of this Schedule shall be payable in respect of the house; and
  - (b) the conditions described in this Part of this Schedule shall cease to apply to the house.”.

(10) Nothing in this paragraph affects the operation of Part II of Schedule 15 to the <sup>M83</sup>Housing Act 1985 in respect of any year ending before 1st April 1996.

**Marginal Citations**

**M80** 1985 c. 68.

**M81** 1958 c. 42.

**M82** 1958 c. 42.

**M83** 1985 c. 68.

**PART III**

ORDERS IN RELATION TO PROPERTY IN FAMILY AND MATRIMONIAL PROCEEDINGS, &C.

*Housing Act 1980 (c.51)*

- 7 In section 54(2) of the Housing Act 1980 (prohibition on assignment of protected shorthold tenancy or protected tenancy of dwelling-house), for “except in pursuance of an order under section 24 of the Matrimonial Causes Act 1973” substitute—

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“except in pursuance of an order under—

- (a) section 24 of the Matrimonial Causes Act 1973 (property adjustment orders in connection with matrimonial proceedings),
- (b) section 17(1) of the Matrimonial and Family Proceedings Act 1984 (property adjustment orders after overseas divorce, &c.), or
- (c) paragraph 1 of Schedule 1 to the Children Act 1989 (orders for financial relief against parents).”.

*Housing Act 1985 (c.68)*

- 8 (1) Section 39 of the Housing Act 1985 (exempted disposals) is amended as follows.
- (2) In subsection (1), for paragraph (c) substitute—
- “(c) it is a disposal of the whole of the house in pursuance of any such order as is mentioned in subsection (3);”.
- (3) After subsection (2) add—
- “(3) The orders referred to in subsection (1)(c) are orders under—
- (a) section 24 or 24A of the Matrimonial Causes Act 1973 (property adjustment orders or orders for the sale of property in connection with matrimonial proceedings),
  - (b) section 2 of the Inheritance (Provision for Family and Dependants) Act 1975 (orders as to financial provision to be made from estate),
  - (c) section 17 of the Matrimonial and Family Proceedings Act 1984 (property adjustment orders or orders for the sale of property after overseas divorce, &c.), or
  - (d) paragraph 1 of Schedule 1 to the Children Act 1989 (orders for financial relief against parents).”.
- 9 In section 88(2) of the Housing Act 1985 (cases where secure tenant is a successor) after “proceedings” insert “ or section 17(1) of the Matrimonial and Family Proceedings Act 1984 (property adjustment orders after overseas divorce, &c.) ”.
- 10 In section 89 of the Housing Act 1985 (succession to periodic tenancy), for subsection (3) substitute—
- “(3) Where there is no person qualified to succeed the tenant, the tenancy ceases to be a secure tenancy—
- (a) when it is vested or otherwise disposed of in the course of the administration of the tenant’s estate, unless the vesting or other disposal is in pursuance of an order made under—
    - (i) section 24 of the Matrimonial Causes Act 1973 (property adjustment orders made in connection with matrimonial proceedings),
    - (ii) section 17(1) of the Matrimonial and Family Proceedings Act 1984 (property adjustment orders after overseas divorce, &c.), or
    - (iii) paragraph 1 of Schedule 1 to the Children Act 1989 (orders for financial relief against parents); or
  - (b) when it is known that when the tenancy is so vested or disposed of it will not be in pursuance of such an order.”.

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- 11 In section 90(3) of the Housing Act 1985 (devolution of secure tenancy), for paragraph (a) and the word “or” at the end of the paragraph substitute—
- “(a) the vesting or other disposal is in pursuance of an order made under—
- (i) section 24 of the Matrimonial Causes Act 1973 (property adjustment orders in connection with matrimonial proceedings),
  - (ii) section 17(1) of the Matrimonial and Family Proceedings Act 1984 (property adjustment orders after overseas divorce, &c.), or
  - (iii) paragraph 1 of Schedule 1 to the Children Act 1989 (orders for financial relief against parents), or”.
- 12 In section 91(3) of the Housing Act 1985 (cases where assignment of secure tenancy permitted), for paragraph (b) substitute—
- “(b) an assignment in pursuance of an order made under—
- (i) section 24 of the Matrimonial Causes Act 1973 (property adjustment orders in connection with matrimonial proceedings),
  - (ii) section 17(1) of the Matrimonial and Family Proceedings Act 1984 (property adjustment orders after overseas divorce, &c.), or
  - (iii) paragraph 1 of Schedule 1 to the Children Act 1989 (orders for financial relief against parents);”.
- 13 In section 99B(2) of the Housing Act 1985 (persons qualifying for compensation for improvements) for paragraph (e) substitute—
- “(e) a person to whom the tenancy was assigned by the improving tenant in pursuance of an order made under—
- (i) section 24 of the Matrimonial Causes Act 1973 (property adjustment orders in connection with matrimonial proceedings),
  - (ii) section 17(1) of the Matrimonial and Family Proceedings Act 1984 (property adjustment orders after overseas divorce, &c.), or
  - (iii) paragraph 1 of Schedule 1 to the Children Act 1989 (orders for financial relief against parents);”.
- 14 In section 101(3) of the Housing Act 1985 (rent not increased on account of tenant’s improvements: qualifying persons) for paragraph (c) substitute—
- “(c) a person to whom the tenancy was assigned by the tenant in pursuance of an order made under—
- (i) section 24 of the Matrimonial Causes Act 1973 (property adjustment orders in connection with matrimonial proceedings),
  - (ii) section 17(1) of the Matrimonial and Family Proceedings Act 1984 (property adjustment orders after overseas divorce, &c.), or
  - (iii) paragraph 1 of Schedule 1 to the Children Act 1989 (orders for financial relief against parents);”.

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- 15 (1) Section 160 of the Housing Act 1985 (exempted disposals in relation to right to buy) is amended as follows.
- (2) In subsection (1), for paragraph (c) substitute—
- “(c) it is a disposal of the whole of the dwelling-house in pursuance of any such order as is mentioned in subsection (3);”.
- (3) After subsection (2) add—
- “(3) The orders referred to in subsection (1)(c) are orders under—
- (a) section 24 or 24A of the Matrimonial Causes Act 1973 (property adjustment orders or orders for the sale of property in connection with matrimonial proceedings),
- (b) section 2 of the Inheritance (Provision for Family and Dependants) Act 1975 (orders as to financial provision to be made from estate),
- (c) section 17 of the Matrimonial and Family Proceedings Act 1984 (property adjustment orders or orders for the sale of property after overseas divorce, &c.), or
- (d) paragraph 1 of Schedule 1 to the Children Act 1989 (orders for financial relief against parents).”.
- 16 In section 171B(4)(b) of the Housing Act 1985 (extent of preserved right to buy: qualifying successors of tenant), after sub-paragraph (ii) insert—
- “or
- (iii) a property adjustment order under section 17(1) of the Matrimonial and Family Proceedings Act 1984 (property adjustment orders after overseas divorce, &c.), or
- (iv) an order under paragraph 1 of Schedule 1 to the Children Act 1989 (orders for financial relief against parents).”.
- 17 In paragraph 1(2) of Schedule 6A to the Housing Act 1985 (obligation to redeem landlord’s share: excluded disposals), for paragraph (c) substitute—
- “(c) it is a disposal in pursuance of an order under—
- (i) section 24 or 24A of the Matrimonial Causes Act 1973 (property adjustment orders or orders for the sale of property in connection with matrimonial proceedings),
- (ii) section 2 of the Inheritance (Provision for Family and Dependants) Act 1975 (orders as to financial provision to be made from estate),
- (iii) section 17 of the Matrimonial and Family Proceedings Act 1984 (property adjustment orders or orders for the sale of property after overseas divorce, &c.), or
- (iv) paragraph 1 of Schedule 1 to the Children Act 1989 (orders for financial relief against parents).”.
- Landlord and Tenant Act 1987 (c.31)*
- 18 In section 4(2) of the Landlord and Tenant Act 1987 (right of first refusal: excluded disposals), for paragraph (c) substitute—
- “(c) a disposal in pursuance of an order made under—



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- (i) section 24 of the Matrimonial Causes Act 1973 (property adjustment orders in connection with matrimonial proceedings),
- (ii) section 24A of the Matrimonial Causes Act 1973 (orders for the sale of property in connection with matrimonial proceedings) where the order includes provision requiring the property concerned to be offered for sale to a person or class of persons specified in the order,
- (iii) section 2 of the Inheritance (Provision for Family and Dependants) Act 1975 (orders as to financial provision to be made from estate),
- (iv) section 17(1) of the Matrimonial and Family Proceedings Act 1984 (property adjustment orders after overseas divorce, &c.),
- (v) section 17(2) of the Matrimonial and Family Proceedings Act 1984 (orders for the sale of property after overseas divorce, &c.) where the order includes provision requiring the property concerned to be offered for sale to a person or class of persons specified in the order, or
- (vi) paragraph 1 of Schedule 1 to the Children Act 1989 (orders for financial relief against parents);”.

*Housing Act 1988 (c.50)*

- 19 (1) Paragraph 4 of Schedule 11 to the Housing Act 1988 (repayment of discount on disposal: exempted disposals) is amended as follows.
- (2) In sub-paragraph (1), for paragraph (c) substitute—
- “(c) it is a disposal of the whole of the house in pursuance of any such order as is mentioned in sub-paragraph (4) below;”.
- (3) After sub-paragraph (3) add—
- “(4) The orders referred to in sub-paragraph (1)(c) above are orders under—
- (a) section 24 or 24A of the Matrimonial Causes Act 1973 (property adjustment orders or orders for the sale of property in connection with matrimonial proceedings),
  - (b) section 2 of the Inheritance (Provision for Family and Dependants) Act 1975 (orders as to financial provision to be made from estate),
  - (c) section 17 of the Matrimonial and Family Proceedings Act 1984 (property adjustment orders or orders for the sale of property after overseas divorce, &c.), or
  - (d) paragraph 1 of Schedule 1 to the Children Act 1989 (orders for financial relief against parents).”.

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## PART IV

### OTHER HOUSING PROVISIONS

#### *Abolition of consent requirements for exercise of certain housing powers*

- 20 Section 16 of the <sup>M84</sup>Housing Act 1985 (consent requirements for exercise of certain housing powers) shall cease to have effect.

**Marginal Citations**

**M84** 1985 c. 68.

#### *Amendments of section 133 of the Housing Act 1988*

- 21 (1) Section 133 of the <sup>M85</sup>Housing Act 1988 (consent required for certain subsequent disposals) is amended as follows.

- (2) After subsection (1) insert—

“(1A) This section does not apply if the original disposal was made before the date on which this section comes into force.”.

The amendment made by this sub-paragraph shall be deemed always to have had effect.

- (3) After subsection (2) insert—

“(2A) Consent required for the purposes of this section may be given either generally to all persons who may require such consent or to any particular person or description of person who may require such consent.”.

- (4) After subsection (5) insert—

“(5A) A person seeking any consent required by virtue of this section is not required to consult a tenant of the land or house proposed to be disposed of if—

- (a) consent is sought for the disposal of the land or house to that tenant or to persons including that tenant; or
- (b) consent is sought subject to the condition that the land or house is vacant at the time of the disposal;

and, accordingly, subsection (5) does not apply in either case.”.

**Marginal Citations**

**M85** 1988 c. 50.

#### *Abolition of requirements for Treasury consent*

- 22 (1) Any requirement in the following enactments for the consent or approval of the Treasury shall cease to have effect—

- (a) in the <sup>M86</sup>Rent Act 1977—

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- section 63(2) (schemes for appointment of rent officers), and  
Schedule 10 (rent assessment committees);
- (b) Schedule 26 to the <sup>M87</sup>Local Government, Planning and Land Act 1980 (urban development corporations);
- (c) in the <sup>M88</sup>Housing Act 1985—  
section 156(4) (liability to repay discount: approved lending institutions), and  
section 429A (financial assistance for persons concerned with housing management);
- (d) in the <sup>M89</sup>Housing Associations Act 1985—  
section 85(2) (meaning of “recognised body”), and  
paragraphs 5 and 6 of Schedule 6 (remuneration, allowances and pensions);
- (e) Schedule 7 to the Housing Act 1988 (constitution of housing action trusts);
- (f) Schedule 17 to the <sup>M90</sup>Leasehold Reform, Housing and Urban Development Act 1993 (constitution of the Urban Regeneration Agency).
- (2) In Schedule 10 to the Rent Act 1977 (rent assessment committees), in paragraph 9(c), for “the Minister for the Civil Service” substitute “ the Secretary of State ”.
- (3) The amendments in this paragraph do not extend to Scotland.

#### Extent Information

**E8** For extent of Sch. 18 para. 22 see (3) of the para. (and s. 231)

#### Marginal Citations

**M86** 1977 c. 42.

**M87** 1980 c. 65.

**M88** 1985 c. 68.

**M89** 1985 c. 69.

**M90** 1993 c. 28.

#### *Disposal of dwelling-houses subject to secure tenancies: consultation requirements*

23 In section 106A of the <sup>M91</sup>Housing Act 1985 (consultation before disposal to private sector landlord) at the end insert—

“(3) That Schedule, and this section, do not apply in relation to any disposal of an interest in land by a local authority if—

- (a) the interest has been acquired by the authority (whether compulsorily or otherwise) following the making of an order for compulsory purchase under any enactment, other than section 290 (acquisition of land for clearance),
- (b) the order provides that the interest is being acquired for the purpose of disposal to a registered social landlord, and
- (c) such a disposal is made within one year of the acquisition.

(4) In this section “registered social landlord” has the same meaning as in Part I of the Housing Act 1996.”

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**Marginal Citations**

**M91** 1985 c. 68.

*Powers of local housing authorities to acquire land for housing purposes*

- 24 (1) In section 17(2) of the Housing Act 1985 (acquisition of land for housing purposes) at end insert “ or facilities which serve a beneficial purpose in connection with the requirements of persons for whom housing accommodation is provided ”.
- (2) In section 74(3)(b) of the <sup>M92</sup>Local Government and Housing Act 1989 (land excluded from Housing Revenue Account) at end insert “ or facilities which serve a beneficial purpose in connection with the requirements of persons for whom housing accommodation is provided ”.

**Marginal Citations**

**M92** 1989 c. 42.

*Housing action trusts*

- 25 (1) In section 63 of the <sup>M93</sup>Housing Act 1988 (objects etc of housing action trusts)—
- (a) in subsection (1)(d) after “conditions” insert “ of those living ”; and
- (b) after subsection (2) insert—
- “(2A) For the avoidance of doubt it is hereby declared that it is immaterial for the purposes of this section whether action taken by a housing action trust for achieving its objects or exercising the powers conferred on it by subsection (2) above also—
- (a) benefits persons who do not live in the designated area; or
- (b) improves the social conditions or general environment of an area outside the designated area.”.
- (2) In section 64 of that Act (proposals for area of housing action trust) in subsections (1) and (5) after “in” insert “ relation to ”.

**Marginal Citations**

**M93** 1988 c. 50.

*Preserved right to buy*

- 26 (1) In section 171B of the Housing Act 1985 (qualifying persons in relation to preserved right to buy)—
- (a) in subsection (4)(a), at the end insert “ or in whom that assured tenancy vested under section 17 of the Housing Act 1988 (statutory succession to assured tenancy) ”; and
- (b) in subsection (5)(b), for “subsection (4)(a) or (b)” substitute “ subsection (4) ”.

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- (2) The amendment made by sub-paragraph (1)(a) does not apply in relation to qualifying disposals (within the meaning of Part V of the <sup>M94</sup>Housing Act 1985) made before, or made under a contract entered into before, the day on which this paragraph comes into force.

**Marginal Citations**

**M94** 1985 c. 68.

*Local authority assistance in connection with mortgages*

- 27 (1) Section 442 of the Housing Act 1985 (agreements by local authority to indemnify mortgagees) is amended as follows.
- (2) In subsection (1)—
- (a) for the words from the beginning to “house” (in the second place it appears) substitute “ A local authority may enter into an agreement with a person or body making an advance on the security of a house (or a building to be converted into a house) ”;
- (b) for “society or body” (in both places) substitute “ mortgagee ”.
- (3) After subsection (1) insert—
- “(1A) The local authority may only enter into the agreement if the advance is for one or more of the purposes specified in subsection (1) of section 435; and subsections (2) to (4) of that section apply in relation to power to enter into such an agreement as they apply to the power to make an advance under that section.”.
- (4) In subsection (2) for “building society or recognised body” substitute “ mortgagee ”;
- (5) Subsections (4) and (5) shall cease to have effect.
- 28 In section 443 of the Housing Act 1985 (local authority contributions to mortgage costs)—
- (a) in subsection (1), for “a building society or recognised body” substitute “ any person or body ”; and
- (b) subsections (2) and (3) shall cease to have effect.
- 29 (1) For section 444 of the Housing Act 1985 (meaning of “recognised body” and “relevant advance”) substitute—

**“444 Relevant advances for the purposes of section 443.**

The expression “relevant advance” in section 443 (contributions to mortgage costs) means an advance made to a person whose interest in the house (or building to be converted into a house) on the security of which the advance is made is, or was, acquired by virtue of a conveyance of the freehold, or a grant or assignment of a long lease, by a housing authority.”.

- (2) Any reference in an agreement made under section 442 of the Housing Act 1985 before the date on which this paragraph comes into force which defines the expression “recognised body” by reference to section 444 of that Act shall

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(notwithstanding the amendment made by sub-paragraph (1) of this paragraph) continue to have the same meaning as it had immediately before that date.

30 In paragraph 21(d) of Schedule 13 to the <sup>M95</sup>Local Government (Wales) Act 1994 (Residuary Body a local authority for purposes of section 442 of Housing Act 1985)

- (a) omit the words from “(so” to “subsection (1)(b))”, and
- (b) after “local authority” insert “agreement to indemnify mortgagee and ”.

#### Marginal Citations

M95 1994 c. 19.

## SCHEDULE 19

Section 227.

### REPEALS

#### Extent Information

**E9** Act extends to E.W. only with the exceptions mentioned in s. 231(2)(3); and any amendment or repeal of an enactment has the same extent as the enactment amended or repealed with the exceptions mentioned in s. 231(4)(a)-(d)

#### Modifications etc. (not altering text)

**C12** Sch. 19 Pt. III restricted (22.8.1996) by S.I. 1996/2212, **art. 2(2)**, Sch. para. 2  
Sch. 19 Pt. V restricted (22.8.1996) by S.I. 1996/2212, **art. 2(2)**, Sch. para. 4(b)  
Sch. 19 Pt. VIII restricted (25.11.1996) by S.I. 1996/2959, **art. 3**, **Sch. para. 1**  
Sch. 19 Pt. VI restricted (5.3.1997) by S.I. 1997/618, **art. 2**, **Sch. para. 6**

#### Commencement Information

**I21** Sch. 19 partly in force; Sch. 19 in force at 24.9.1996 so far as it relates to Sch. 18 paras. 24, 26, 27-29, see s. 232(2); Sch. 19 Pts. III and V partly in force at 1.10.1996 by S.I. 1996/2212, **art. 2(2)**; Sch. 19 Pts. I, X-XIII in force and Pt. IX partly in force at 1.10.1996 by S.I. 1996/2402, **art. 3** (with transitional provisions and savings in the Sch.); Sch. 19 Pt. XIV partly in force at 24.9.1996 by S.I. 1996/2402, **art. 2**; Sch. 19 Pt. VIII in force at 20.1.1997 and Pt. VII in force at 1.4.1997 by S.I. 1996/2959, **arts. 2, 3**; Sch. 19 Pt. IV in force at 28.2.1997 by S.I. 1997/225, **art. 2**; Sch. 19 Pt. V partly in force and Pt. VI wholly in force at 1.4.1997 by S.I. 1997/618, **art. 2** (subject to the limitation in (2) of that art.); Sch. 19 Pt. II in force at 3.3.1997 by S.I. 1997/596, **art. 2**; Sch. 19 Pt. III partly in force at 1.9.1997 by S.I. 1997/1851, **art. 2** (subject to the saving in Sch. para. 1 of that S.I.)

## PART I

### SOCIAL RENTED SECTOR

| Chapter     | Short title                    | Extent of repeal |
|-------------|--------------------------------|------------------|
| 1985 c. 69. | Housing Associations Act 1985. | Sections 3 to 8. |

*Status: Point in time view as at 01/01/2003.*

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|             |   |  |
|-------------|---|--|
|             |   | Section 9(1) and (4).                              |
|             |   | Section 11.  |
|             |   | Sections 13 to 33.                                 |
|             |   | Section 36A.                                       |
|             |   | Section 67.  |
|             |   | Section 69(1)(e) and (g).                          |
|             |   | Schedules 2 and 3.                                 |
| 1988 c. 9.  | Local Government Act 1988.                                | Section 24(5)(a) and (c).                          |
| 1988 c. 50. | Housing Act 1988.   | Sections 48 and 49.                                |
|             |   | Section 55(1)(a).                                  |
|             |   | Section 58.  |
|             |   | Section 79(6) to (10).                             |
|             |   | In section 92(2), the words from “but” to the end. |
|             |   | In Schedule 6, paragraphs 3 to 6 and 9 to 23.      |
| 1989 c. 42. | Local Government and Housing Act 1989.                    | Section 182.                                       |
| 1993 c. 10. | Charities Act 1993.                                       | In Schedule 6, paragraph 21(3).                    |
| 1993 c. 28. | Leasehold Reform, Housing and Urban Development Act 1993. | Section 134.                                       |

## PART II

### HOUSES IN MULTIPLE OCCUPATION

| Chapter     | Short title                            | Extent of repeal  |
|-------------|--|---|
| 1985 c. 68. | Housing Act 1985.                      | In section 365(5), the words “and (e)”.   |
|             |  | In section 368(3), the words from “and if” to the end.  |
|             |  | Section 619(1).   |
| 1989 c. 42. | Local Government and Housing Act 1989. | In Schedule 9—<br>(a) paragraphs 45 to 47 and 53(2),<br>(b) in paragraph 53(3) the words from ““after” to “(2A)” and” and the words “of that subsection”, |

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(c) paragraphs 55(2), 63, 66 and 68(2).

In Schedule 11, paragraphs 75 and 76.

### PART III

#### TENANTS' RIGHTS

##### Modifications etc. (not altering text)

C13 Sch. 19 Pt. III restricted (22.8.1996) by S.I. 1996/2212, art. 2(2), [Sch. para.2](#)

| Chapter     | Short title                   | Extent of repeal  |
|-------------|-------------------------------|---|
| 1985 c. 70. | Landlord and Tenant Act 1985. | In section 19(3), the words “within the meaning of Part I of the Arbitration Act 1996”.<br>Section 19(4).   |
| 1987 c. 31. | Landlord and Tenant Act 1987. | In section 4(2)(aa), the words “consisting of the creation of an estate or interest”.<br>In section 20(1), the definition of “the new landlord”.<br>In section 20(2), the words “or counter-offer” in each place where they occur.<br>Section 24(2)(a)(ii).<br>Section 31(5).<br>In section 60(1), the definition of “rent assessment committee”. |
| 1996 c. 23. | Arbitration Act 1996.         | In Schedule 3, paragraph 43.  |

### PART IV

#### ASSURED TENANCIES

| Chapter     | Short title       | Extent of repeal   |
|-------------|-------------------|--|
| 1985 c. 68. | Housing Act 1985. | In section 553(2)(b), the words “or under section 20(1)(c) of that Act (notice |



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|             |                   |   |
|-------------|-------------------|---|
| 1988 c. 50. | Housing Act 1988. | served in respect of assured shorthold tenancies)”.<br>Section 20(7).<br>In section 22, in subsection (1), the words from “in respect of” to “above” and, in subsection (2), the word “or” after paragraph (a).<br>In Schedule 17, paragraph 60(c). |
|-------------|-------------------|---|

## PART V

### LEASEHOLD REFORM

#### Modifications etc. (not altering text)

C14 Sch. 19 Pt. V restricted (22.8.1996) by S.I. 1996/2212, art. 2(2), Sch. para.4(b)

| Chapter     | Short title   | Extent of repeal   |
|-------------|---|--|
| 1993 c. 28. | Leasehold Reform, Housing and Urban Development Act 1993. | In section 1, in subsection (3), the words “the freehold of it is owned by the person who owns the freehold of the relevant premises and” and, in subsection (7), the definition of “the freeholder”.<br>In section 3(1)(a), the words “and the freehold of the whole of the building or of that part of the building is owned by the same person”.<br>In section 10(6), the definition of “the freeholder”.<br>In section 11(4)(i), the words “as is mentioned in subsection (3)(c)”.<br>In section 13, in subsection (3)(a)(iii), the words “of the person who owns the freehold of the specified premises” and “by him” and subsections (4), (6) and (7). |

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In section 39, in subsection (3), the word “and” at the end of paragraph (b), and subsection (6).

In Schedule 6, in paragraph 1(1), the definition of “the freeholder”.

## PART VI

### HOUSING BENEFIT AND RELATED MATTERS

#### Modifications etc. (not altering text)

**C15** Sch. 19 Pt. VI restricted (5.3.1997) by S.I. 1997/618, art.2, Sch. para. 6

| Chapter     | Short title  | Extent of repeal   |
|-------------|--|--|
| 1988 c. 50. | Housing Act 1988.                                    | Section 121.   |
| 1988 c. 43. | Housing (Scotland) Act 1988.                         | Section 70.  |
| 1992 c. 4.  | Social Security Contributions and Benefits Act 1992. | Section 130(5).  |
| 1992 c. 5.  | Social Security Administration Act 1992.             | Section 116(4)(a).<br><br>In section 134—<br>(a) in subsection (2)(b), the words “or rates”;<br>(b) subsections (3), (4), (6) and (7).<br><br>Sections 135 to 137.<br><br>Section 140.<br><br>In section 191—<br>(a) in the definition of “rate rebate”, “rent rebate” and “rent allowance”, the reference to rate rebate;<br>(b) the definitions of “rates” and “rating authority”. |
| 1992 c. 6.  | Social Security (Consequential Provisions) Act 1992. | In Schedule 2, paragraph 104.  |
| 1992 c. 14. | Local Government Finance Act 1992.                   | In Schedule 9, paragraph 21.   |

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|             |  |  |
|-------------|--|--|
| 1994 c. 39. | Local Government etc. (Scotland) Act 1994. | In Schedule 13, in paragraph 175, in sub-paragraph (3) the words “138(1), 139(2), (5) and (6) and 140(1), (2), (4) and (7)” and sub-paragraph (4). |
|-------------|--|--|

## PART VII

### ALLOCATION OF HOUSING ACCOMODATION

| Chapter     | Short title                      | Extent of repeal   |
|-------------|----------------------------------|--|
| 1985 c. 68. | Housing Act 1985.                | Section 22.<br><br>In Schedule 1, in paragraph 2(4) the words from “until” to the end and in paragraphs 5(1) and 10(1) the words from “unless” to the end.                                     |
| 1996 c. 49. | Asylum and Immigration Act 1996. | In section 9(4), the definitions of “the accommodation Part”, “housing authority” and “licence to occupy” and, in the definition of “tenancy” the words “, in relation to England and Wales,”. |

## PART VIII

### HOMELESSNESS

**Modifications etc. (not altering text)**

**C16** Sch. 19 Pt. VIII restricted (25.11.1996) by S.I. 1996/2959, art. 3, Sch. para.1

| Chapter     | Short title                                  | Extent of repeal                        |
|-------------|--|---|
| 1985 c. 68. | Housing Act 1985.                            | Part III.                               |
| 1985 c. 71. | Housing (Consequential Provisions) Act 1985. | In Schedule 2, paragraphs 19 and 60(3). |
| 1986 c. 63. | Housing and Planning Act 1986.               | Section 14.                             |
| 1987 c. 26. | Housing (Scotland) Act 1987.                 | In Schedule 23, paragraph 30(1).        |
| 1988 c. 50. | Housing Act 1988.                            | Section 1(6) and (7).                   |

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|             |  |   |
|-------------|--|---|
|             |  | Section 70.   |
| 1993 c. 23. | Asylum and Immigration Appeals Act 1993.   | Sections 4 and 5.   |
|             |  | Schedule 1.   |
| 1994 c. 39. | Local Government etc. (Scotland) Act 1994. | In Schedule 13, paragraph 142(2).   |
| 1996 c. 49. | Asylum and Immigration Act 1996.           | In section 9, subsection (2), in subsection (3)(a) the words “or assistance” and in subsection (4) the definition of “the homelessness Part”. |

## PART IX

### CHANGE OF LANDLORD: SECURE TENANTS

| Chapter        | Short title  | Extent of repeal   |
|----------------|--|--|
| 1985 c. 68.    | Housing Act 1985.  | In section 32(1) and 43(1), the words from “and Part IV” to “tenants”.   |
| 1985 c. 69.    | Housing Associations Act 1985.   | In section 9(1), the word “, 105(6)”.  |
| 1988 c. 50.    | Housing Act 1988.  | In section 79(2)(a), the words “either” and “or under section 94 below”.<br>Sections 93 to 114.<br>In Schedule 2, in Ground 6, the paragraph beginning “For the purposes of this ground, every acquisition under Part IV”. |
|                |  | Schedule 12.<br>In Schedule 17, paragraphs 38 and 39.  |
| 1989 c. 42.    | Local Government and Housing Act 1989.                                     | Section 174.<br>In Schedule 11, paragraphs 107 and 109.  |
| S.I. 1990/778. | Local Authorities (Capital Finance) (Consequential Amendments) Order 1990. | In the Schedule, paragraph 2.  |

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|             |   |  |
|-------------|---|--|
| 1993 c. 28. | Leasehold Reform, Housing and Urban Development Act 1993. | Section 124(4) to (6).<br><br>In Schedule 10, paragraph 1(2)(d). |
| 1995 c. 8.  | Agricultural Tenancies Act 1995.                          | In the Schedule, paragraph 33.                                   |
| 1995 c. 38. | Civil Evidence Act 1995.                                  | In Schedule 1, paragraph 14.                                     |

## PART X

### CONSULTATION WITH RESPECT TO HOUSING MANAGEMENT

| Chapter     | Short title   | Extent of repeal       |
|-------------|---|------------------------|
| 1985 c. 68. | Housing Act 1985.   | Sections 27A and 27AA. |
| 1993 c. 28. | Leasehold Reform, Housing and Urban Development Act 1993. | Sections 130 and 131.  |

## PART XI

### ABOLITION OF EXCHEQUER CONTRIBUTIONS FOR AGRICULTURAL HOUSING

| Chapter     | Short title       | Extent of repeal  |
|-------------|-------------------|---|
| 1985 c. 68. | Housing Act 1985. | In section 432, the entry for Part II of Schedule 15.<br><br>In Schedule 15, Part II. |

## PART XII

### ABOLITION OF CERTAIN CONSENT REQUIREMENTS

| Chapter     | Short title       | Extent of repeal |
|-------------|-------------------|------------------|
| 1985 c. 68. | Housing Act 1985. | Section 16.      |

## PART XIII

### REMOVAL OF TREASURY CONSENT REQUIREMENTS

| Chapter | Short title | Extent of repeal |
|---------|-------------|------------------|
|---------|-------------|------------------|

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|             |  |   |
|-------------|--|---|
| 1977 c. 42. | Rent Act 1977.   | <p>In section 63(2)(a), the words “with the consent of the Treasury”.</p> <p>In Schedule 10, in paragraphs 7, 7A and 8, the words “with the consent of the Minister for the Civil Service”.</p>   |
| 1980 c. 65. | Local Government, Planning and Land Act 1980.            | <p>In Schedule 26, in paragraphs 8, 9 and 10, the words “with the consent of the Minister for the Civil Service” and, in paragraph 12(5), the words “given with the consent of the Minister for the Civil Service”.</p>   |
| 1985 c. 68. | Housing Act 1985.  | <p>In section 156(4), the words “with the consent of the Treasury”.</p> <p>In section 429A, in subsections (1) and (3), the words “with the consent of the Treasury” and “with the like consent” and, in subsection (5), the words “with the consent of the Treasury”.</p>  |
| 1985 c. 69. | Housing Associations Act 1985.                           | <p>In section 85(2), the words “with the consent of the Treasury”.</p> <p>In Schedule 6, in paragraphs 5(1) and 6(1), the words “with the consent of the Treasury”.</p>   |
| 1988 c. 50. | Housing Act 1988.  | <p>In Schedule 7, in paragraph 8, the words “with the approval of the Treasury”, in paragraph 9, the words “with the approval of the Treasury” and “with that approval”, in paragraphs 10 and 12(2), the words “with the approval of the Treasury” and, in paragraph 12(5), the words “given with the consent of the Treasury”.</p> |
| 1993 c. 28. | Leasehold Reform Housing and Urban Development Act 1993. | <p>In Schedule 17, paragraphs 2(4) and 3(8) and, in paragraph 5(5), the words</p>   |

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“with the approval of the  
Treasury”.

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## PART XIV

### LOCAL AUTHORITY ASSISTANCE IN CONNECTION WITH MORTGAGES

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| <b>Chapter</b> | <b>Short title</b>                    | <b>Extent of repeal</b>   |
|----------------|---------------------------------------|---|
| 1974 c. 39.    | Consumer Credit Act 1974.             | In section 16(1)(ff), “444(1)”.   |
| 1985 c. 68.    | Housing Act 1985.                     | Section 442(4) and (5).<br>Section 443(2) and (3).<br>In section 459, the entry for<br>“recognised body”. |
| 1986 c. 53.    | Building Societies Act 1986.          | In Schedule 18, paragraph<br>18(2).   |
| 1994 c. 19.    | Local Government (Wales)<br>Act 1994. | In Schedule 13, in paragraph<br>21(d) the words from “(so” to<br>“subsection (1)(b))”.                    |

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**Status:**

Point in time view as at 01/01/2003.

**Changes to legislation:**

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