
STATUTORY INSTRUMENTS

1986 No. 797

The Defective Dwellings (Mortgagees) Regulations 1986

PART II

MORTGAGEES GENERALLY

Application

2.—(1) This Part of these regulations applies where—

- (a) a mortgagor of a defective dwelling is eligible for assistance under Part XVI of the Act in respect of the dwelling, and
- (b) a power of sale (whether conferred by section 101 of the Law of Property Act 1925 or otherwise) is exercisable by the mortgagee, and
- (c) the mortgagee becomes mortgagee in possession of the defective dwelling,

but does not apply where a local housing authority has the right under Part III of these regulations to vest the dwelling in themselves.

(2) Where a mortgagee is a mortgagee in possession on the date on which these regulations come into operation he shall for the purpose of the regulations be treated as if he became the mortgagee in possession on that date.

Modification of the Act

3. Where this Part of these regulations applies Part XVI of the Act shall have effect as respects the dwelling subject to the modifications specified in regulations 4 to 18 below being modifications to confer rights on the mortgagee in place of those conferred by Part XVI on the mortgagor.

4. In section 527 for “A person” substitute “A mortgagee”; and (in paragraphs (a) and (c)) for “he” substitute “the mortgagor”.

5. In section 531(3)(a) after “section 527” insert “(as in force at the time of the acquisition)”.

6. At the beginning of section 533(1) insert “A mortgagee of”.

7. In section 535(2) for “he” substitute “the mortgagee” and for “his” substitute “the”.

8. Omit section 536(3).

9. For section 537(2) substitute—

“(2) If the applicant is a mortgagee he is entitled to assistance by way of repurchase.”.

10. In section 548(1) after “the person” insert “whose mortgagee is”.

11.—(1) For section 549(1) substitute—

“(1) This section applies where a mortgagee is entitled to assistance by way of repurchase in respect of a defective dwelling and there is a covenant relating to the interest of the mortgagor (“the owner”) in the dwelling whereby—

- (a) before the owner disposes of his interest he must offer to dispose of it to a public sector authority, or
- (b) in the case of a leasehold interest, the owner may require a public sector authority who are his landlord to accept a surrender of the lease but is otherwise prohibited from disposing of it.”.

(2) In section 549(2) after “housing authority” insert “or the mortgagee is not bound by the covenant,”.

(3) In section 549(3) for paragraph (a) substitute—

- “(a) the mortgagee disposes of the owner's interest to the public sector authority in pursuance of the power of sale, and”,

and for the words from “the owner is entitled” to the end substitute—

“the mortgagee is entitled to be paid by the local housing authority the amount (if any) by which 95 per cent. of the defect-free value exceeds the consideration for the disposal, and the amount so paid shall be treated as money received by the mortgagee arising from the sale.”.

12.—(1) In section 550(1) after “he” (in both places where that word appears) insert “or, if the owner is not the mortgagee, the mortgagee”, and after “his” (in paragraph (b)) insert “or the mortgagee's”.

(2) At the end of the section add—

“(7) Any amount paid by the local housing authority under this section to a mortgagee shall be treated as money received by the mortgagee arising from the sale.”.

13. In section 551 for “the owner” (wherever these words appear) substitute “the applicant”.

14. At the beginning of section 552(1) insert “The mortgagee of”.

15. In section 553(1)(b), section 554(1)(c) and section 555(1)(e) after “person” insert “whose mortgagee is”.

16. At the end of section 565 add—

“(3) Where a mortgagee becomes eligible for assistance in respect of a defective dwelling, this Part applies as if anything done (or treated by virtue of subsection (1) as done) by or in relation to the person who was previously so eligible had been done by or in relation to the mortgagee; but if a notice under section 540 (Notice of determination) had been served stating that the applicant was entitled to assistance by way of reinstatement grant then—

- (a) if the qualifying work had not been commenced before the mortgagee became eligible for assistance, that notice shall be regarded as not having been served (and the authority shall comply again with sections 537 and 540), and
- (b) if the qualifying work had been commenced before the mortgagee became eligible for assistance that notice shall continue in force (notwithstanding section 537(2)) but section 546 (Repayment of grant for breach of condition) shall apply to the mortgagee only in respect of instalments paid to him.”.

17. In section 568(6) for “section” substitute “Part”.

18. In paragraph 1 of Schedule 20 after “the person” insert “whose mortgagee is”.