

SCHEDULE 2

PART V AS IT APPLIES IN CASES WHERE THE RIGHT TO BUY IS PRESERVED

Provisions affecting future disposals

Liability to repay is a charge on the premises

156.—(1) The liability that may arise under the covenant imposed by virtue of section 155 is a charge on the qualifying dwelling-house, taking effect as if it had been created by deed expressed to be by way of legal mortgage.

(2) Subject to subsections (2A) and (2B), the charge has priority immediately after any legal charge securing an amount advanced to the qualifying person by an approved lending institution for the purpose of enabling him to exercise the right to buy.

(2A) The following, namely—

- (a) any advance which is made otherwise than for the purpose mentioned in subsection (2) and is secured by a legal charge having priority to the charge taking effect by virtue of this section, and
- (b) any further advance which is so secured,

shall rank in priority to that charge if, and only if, the landlord by written notice served on the institution concerned gives its consent; and the landlord shall so give its consent if the purpose of the advance or further advance is an approved purpose.

(2B) The landlord may at any time by written notice served on an approved lending institution postpone the charge taking effect by virtue of this section to any advance or further advance which—

- (a) is made to the qualifying person by that institution, and
- (b) is secured by a legal charge not having priority to that charge;

and the landlord shall serve such a notice if the purpose of the advance or further advance is an approved purpose.

(3) A charge taking effect by virtue of this section is a land charge for the purposes of section 59 of the Land Registration Act 1925 notwithstanding subsection (5) of that section (exclusion of mortgages), and subsection (2) of that section applies accordingly with respect to its protection and realisation.

(3A) The covenant imposed by virtue of section 155 (covenant for repayment of discount) does not, by virtue of its binding successors in title of the qualifying person, bind a person exercising rights under a charge having priority over the charge taking effect by virtue of this section, or a person deriving title under him; and a provision of the conveyance or grant, or of a collateral agreement, is void in so far as it purports to authorise a forfeiture, or to impose a penalty or disability, in the event of any such person failing to comply with that covenant.

(4) The approved lending institutions for the purposes of this section are—

- the Corporation,
- a building society,
- a bank,
- a trustee savings bank,
- an insurance company,
- a friendly society,

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and any body specified, or of a class or description specified, in an order made by the Secretary of State with the consent of the Treasury.

(4A) The approved purposes for the purpose of this section are—

(b) to enable the qualifying person to defray, or to defray on his behalf, any of the following—

(i) the cost of any works to the qualifying dwelling-house,

(ii) any service charges payable in respect of the qualifying dwelling-house for works, whether or not to the qualifying dwelling-house, or

(iii) any service charge or other amount payable in respect of the qualifying dwelling-house for insurance, whether or not to the qualifying dwelling-house, and

(c) to enable the qualifying person to discharge, or to discharge on his behalf, any of the following—

(i) so much as is still outstanding of any advance or further advance which ranks in priority to the charge taking effect by virtue of this section,

(ii) any arrears of interest on such an advance or further advance, and

(iii) any costs and expenses incurred in enforcing payment of any such interest, or repayment (in whole or in part) of any such advance or further advance.

(4B) Where different parts of an advance or further advance are made for different purposes, each of those parts shall be regarded as a separate advance or further advance for the purposes of this section.

(5) An order under subsection (4)—

(a) shall be made by statutory instrument, and

(b) may make different provision with respect to different cases or descriptions of case, including different provision for different areas.

(6) Before making an order varying or revoking a previous order, the Secretary of State shall give an opportunity for representations to be made on behalf of any body which, if the order were made, would cease to be an approved lending institution for the purposes of this section.