

SCHEDULES

SCHEDULE 2

REPURCHASE

PART II

DISCHARGE OF CHARGES ON INTEREST

Interpretation

5. In this Part—

- (a) “interest acquired” means the interest in a defective dwelling of which the vendor disposes under an agreement entered into in pursuance of Article 9;

“purchase price” means the price which such an agreement requires the Executive to pay for the interest acquired; and

“vendor” means the person with whom the Executive enters into such an agreement; and

- (b) references to a charge are references to a charge securing the performance of an obligation, and—

(i) include a mortgage or lien, but

(ii) do not include a rentcharge (that is to say any annual or other periodic sum charged on or issuing out of land, other than rent reserved by a lease or tenancy or any sum payable by way of interest).

Effect of conveyance

6.—(1) Subject to paragraph 7(3), a conveyance executed under an agreement entered into in pursuance of Article 9 shall, by virtue of this paragraph, be effective to discharge the interest acquired—

- (a) from any relevant charge to which it is subject immediately before it is conveyed to the Executive, and

(b) from the operation of any order made by a court for the enforcement of such a charge; without the persons entitled to or interested in such a charge, order or term of years becoming parties to or executing the conveyance.

(2) The effect of this paragraph is restricted to discharging the interest acquired from the charge concerned and does not affect personal liabilities.

(3) For the purposes of this paragraph, a charge is a relevant charge if—

- (a) it secures the performance of an obligation, and

(b) it is not a registered statutory charge within the meaning of section 94 of the Land Registration Act (Northern Ireland) 1970.

Application of purchase price

7.—(1) Where by virtue of paragraph 6 a conveyance will be effective to discharge a charge securing the payment of money, the Executive shall, subject to sub-paragraph (2), apply the purchase price in the first instance in or towards the redemption of the charge and, if there is more than one, then according to their priorities.

(2) No duty arises under sub-paragraph (1) in the case of—

- (a) any charge in favour of the holders of a series of debentures issued by any body, or
- (b) any charge in favour of trustees for such debenture holders which at the date of the conveyance, is a floating charge,

and the Executive shall disregard such charges in performing its duty under that sub-paragraph.

(3) If the Executive—

- (a) does not apply an amount which, under sub-paragraph (1), it is required to apply in or towards the redemption of a charge, and
- (b) does not pay that amount into court in accordance with paragraph 9,

the charge shall not be discharged by virtue of paragraph 6 and the interest acquired shall remain subject to the charge as security for that amount.

(4) For the purpose of determining the amount which the Executive is required to pay under sub-paragraph (1), a person entitled to a charge shall not be permitted to exercise any right to consolidate that charge with a separate charge on other property.

(5) For the purpose of redeeming a charge in pursuance of sub-paragraph (1), a person may be required to accept three months or any longer notice of the intention to pay the principal or any part of it secured by the charge, together with interest to the date of payment, notwithstanding that this differs from the terms of the security as to the time and manner of payment.

(6) A charge to which the vendor or the Executive itself is entitled shall rank for payment in pursuance of sub-paragraph (1) as it would if another person were entitled to it.

8. Paragraphs 6(1) and 7(1) do not prevent a person from joining in the conveyance for the purpose of discharging the interest acquired from any charge without payment or for less payment than that to which he would otherwise be entitled; and, if he does so, the person to whom the purchase price ought to be paid shall be determined accordingly.

Payment into court

9.—(1) Where under paragraph 6(1) the interest acquired is to be discharged from any charge falling within that sub-paragraph, and in accordance with paragraph 7(1) a person is or may be entitled in respect of the charge to receive the whole or part of the purchase price, then if—

- (a) for any reason difficulty arises in ascertaining how much is payable in respect of the charge; or
- (b) for any reason mentioned in sub-paragraph (2) difficulty arises in making a payment in respect of the charge;

the Executive may pay into court on account of the purchase price the amount, if known, of the payment to be made in respect of the charge or, if that amount is not known, the whole of the purchase price or such less amount as the Executive thinks right in order to provide for that payment.

(2) The reasons referred to in sub-paragraph (1)(b) are—

- (a) that a person who is or may be entitled to receive payment cannot be found or ascertained;

- (b) that any such person refuses or fails to make out a title, or to accept payment and give a proper discharge, or to take any steps reasonably required of him to enable the sum payable to be ascertained and paid; or
 - (c) that a tender of the sum payable cannot, by reason of complications in the entitlement to payment or the want of two or more trustees or for other reasons, be effected, or not without incurring or involving unreasonable cost or delay.
- (3) Without prejudice to sub-paragraph (1)(a), the purchase price shall be paid by the Executive into court if before the execution of a conveyance under an agreement entered into in pursuance of Article 9 written notice is given to it—
- (a) that the vendor or a person entitled to a charge on the interest of which the vendor disposes under such an agreement so requires for the purpose of protecting the rights of persons so entitled, or for reasons related to the bankruptcy or winding up of the vendor; or
 - (b) that steps have been taken to enforce any charge on the interest of which the vendor disposes under such an agreement by the bringing of proceedings in any court, or by the appointment of a receiver, or otherwise;
- and where payment is to be made into court by reason only of a notice under this sub-paragraph, and notice is given with reference to proceedings in a court specified in the notice other than the county court, payment shall be made into the court so specified.

Changes to legislation:

There are currently no known outstanding effects for the The Housing (Northern Ireland) Order 1986, PART II.