

SCHEDULES

SCHEDULE 4

Section 13(7).

ADVANCES : SUPPLEMENTARY PROVISIONS

Provisions as to sale of mortgaged property

- 1 (1) Where any land has been mortgaged to a building society as security for an advance and a person sells the land in the exercise of a power (whether statutory or express) exercisable by virtue of the mortgage, it shall be his duty—
- (a) in exercising that power, to take reasonable care to ensure that the price at which the land is sold is the best price that can reasonably be obtained, and
 - (b) within 28 days from the completion of the sale, to send to the mortgagor at his last-known address by the recorded delivery service a notice containing the prescribed particulars of the sale.
- (2) In so far as any agreement relieves, or may have the effect of relieving, a building society or any other person from the obligation imposed by sub-paragraph (1)(a) above, the agreement shall be void.
- (3) Breach by a building society or any other person of the duty imposed by sub-paragraph (1)(b) above, if without reasonable excuse, shall be an offence.
- (4) Any person guilty of an offence under sub-paragraph (3) above shall be liable on summary conviction—
- (a) to a fine not exceeding level 2 on the standard scale, and
 - (b) to an additional fine for each week during which the offence continues not exceeding £10,
- and, in relation to such an offence on the part of a building society, so shall any officer who is also guilty of the offence.
- (5) Nothing in this section shall affect the operation of any rule of law relating to the duty of a mortgagee to account to his mortgagor.
- (6) In sub-paragraph (1) above " mortgagor", in relation to a mortgage in favour of a building society, includes any person to whom, to the knowledge of the person selling the land, any of the rights or liabilities of the mortgagor under the mortgage have passed, whether by operation of law or otherwise.

Discharge of mortgages

- 2 (1) When all money intended to be secured by a mortgage given to a building society has been fully paid or discharged, the society may endorse on or annex to the mortgage one or other of the following—
- (a) a receipt in the prescribed form under the society's seal, countersigned by any person acting under the authority of the board of directors;
 - (b) a reconveyance of the mortgaged property to the mortgagor;

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- (c) a reconveyance of the mortgaged property to such person of full age, and on such trusts (if any), as the mortgagor may direct.
- (2) Where in pursuance of sub-paragraph (1) above a receipt is endorsed on or annexed to a mortgage, not being a charge or incumbrance registered under the Land Registration Act 1925, the receipt shall operate in accordance with section 115(1), (3), (6) and (8) of the Law of Property Act 1925 (discharge of mortgages by receipt) in the like manner as a receipt which fulfils all the requirements of subsection (1) of that section.
- (3) Section 115(9) of the Law of Property Act 1925 shall not apply to a receipt in the prescribed form endorsed or annexed by a building society in pursuance of sub-paragraph (1) above; and in the application of that subsection to a receipt so endorsed or annexed which is not in that form, the receipt shall be taken to be executed in the manner required by the statute relating to the society if it is under the society's seal and countersigned as mentioned in sub-paragraph (1)(a) above.
- (4) The foregoing sub-paragraphs shall, in the case of a mortgage of registered land, have effect without prejudice to the operation of the Land Registration Act 1925 or any rules in force under it
- (5) In this paragraph—
 " mortgage " includes a further charge ;
 " the mortgagor ", in relation to a mortgage, means the person for the time being entitled to the equity of redemption; and
 " registered land " has the same meaning as in the Land Registration Act 1925.
- (6) This paragraph does not apply to Scotland.
- (7) In the application of this paragraph to Northern Ireland—
 (a) in sub-paragraph (1) for the words " on such trusts " there shall be substituted the words " on such uses " ;
 (b) in sub-paragraph (2)—
 (i) for the words from " charge" to " Property Act 1925 " there shall be substituted the words " on registered land, the receipt to operate in accordance with Article 3(1), (7) and (9) of the Property (Discharge of Mortgage by Receipt) (Northern Ireland) Order 1983 " ; and
 (ii) for the words " subsection (1) of that section" there shall be substituted the words " paragraph (1) of that Article " ;
 (c) for sub-paragraphs (3) and (4) there shall be substituted—
 “(3) If the mortgage is registered in accordance with the Registration of Deeds Act (Northern Ireland) 1970, the registrar under that Act shall—
 (a) on production of the receipt mentioned in sub-paragraph (1) above make a note in the Abstract Book against the entry relating to the mortgage that the mortgage is satisfied; and
 (b) grant a certificate, either on the mortgage or separately, that the mortgage is satisfied.
 (4) The certificate granted under sub-paragraph (3)(b) above shall—

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- (a) be received in all courts and proceedings without further proof ; and
- (b) have the effect of clearing the register of the mortgage.”;
- (d) in sub-paragraph (5) for the definition of " registered land " there shall be substituted the following definition—
 - “" registered land " means land the title to which is registered under Part III of the Land Registration Act (Northern Ireland) 1970 ;”.

Power to prescribe form of documents

- 3 (1) The Chief Registrar may make rules for prescribing anything authorised or required by any provision of this Schedule to be prescribed ; and in this Schedule " prescribed" means prescribed by rules made under this paragraph.
- (2) The power to make rules under this paragraph shall be exercisable by statutory instrument.